

# DCoD

DCo Digest

May 2021 Edition



Dhadda & Co.  
CHARTERED ACCOUNTANTS



# Newsletter



# Contents

Preface	: 3
Updates	: 4
Judicial Pronouncements	: 18
Expert's Insight	: 22
New on GSTN portal	: 25

India has seen an awful surge in the COVID-19 Cases since the second wave hit the country. Gradually, the number of cases seems to be decreasing. The vaccination drive is helpful to a great extent. However, as the experts suggest the probability of a third wave, we should not be reckless and hope for the best. Even the darkest clouds have a silver lining!

GST Council's 43rd meeting was held on 28th May 2021 through video conferencing. Considering the present crisis, specific recommendations were made. The summary is presented in this edition. In addition to the relief measures already provided to the taxpayers, additional relaxations were recommended vide the notifications issued on 01.05.2021. Apart from this, we have also summarised relaxation in due dates in Direct taxes.

GST updates, new features on GST Portal, landmark verdicts passed last month are also included. For, Expert's Insight, this time, we have discussed one of the most mind-boggling topics, i.e. Eligibility of ITC in CSR Activities. We hope you find this edition as enlightening as the previous ones.

Stay Home, Stay Safe and Get Vaccinated!

# Preface



## CBIC issued Guidelines vide CBEC-20/16/34/2019-GST/802 dated May 24, 2021 w.r.t. Cancellation of Registration under Rule 22(3) of CGST/SGST Rules 2017

Kind attention is invited to Rule 22 (3) of CGST Rules, 2017 regarding the procedure to be followed for processing of application filed by taxpayers to cancel the registration. The same is reproduced below:

“(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 rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1), for 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.”

It is evident from the aforementioned rule that the proper officer is required to issue the order in FORM GST REG-19 in respect of the application for cancellation of registration filed by the taxpayer within a period of thirty days from the date of the application submitted by the taxpayer and direct him to pay arrears of any tax, interest or penalty, including the amount liable to be paid under sub-section (5) of section 29.

In order to provide clarification on various issues in relation to processing of the applications for cancellation of registration filed by taxpayers in FORM GST REG-16 and to ensure uniformity in the implementation of the provisions of law across the field formations. the Board issued Circular No. 69/43/2018-UST dated 26.10.2018. The said circular clarified in detail the procedure to be followed in relation to processing of the applications for cancellation of registration filed by taxpayers. Para 5 of the said Circular is reproduced below:

*"5. Since the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should accept all such applications within a period of 30 days from the date of filing the application, except in the following circumstances:*

- a) The application in FORM GST REG-16 is incomplete, i.e., where all the relevant particulars. as detailed in para four above, have not been entered;*
- b) In case of transfer, merger or amalgamation of business. the new entity in which the applicant proposes to amalgamate or merge has not been registered with the tax authority before submitting the application for cancellation.*

*In all cases other than those listed at (a) and (b) above, the application for cancellation of registration should be immediately accepted by the proper officer, and the order for cancellation should be issued in FORM GST REG-19 with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in FORM GST REG-16. In any case, the effective date cannot be a date earlier to the date of application for the same."*

**However, O/o C&AG, during the course of the audit, has observed that in a large number of cases, the applications for cancellation of CST registration were not disposed of by tax officers within 30 days, as prescribed under Rules 22 (3) of CGST Rules 2017. It has also been observed that in some cases, the cancellation applications were found pending even after more than 120 days.**

Considering that the legal provision stipulates passing of the order in respect of the application of cancellation of registration within 30 days of the date of the application, and also as it has already been clarified vide Circular No. 69/43/2018-GST dated 26.10.2018 that cancellation of registration does not affect the liability of the taxpayer for any Acts of commission/omission committed before or after the date of cancellation, the proper officer should act as per prescribed legal process within the stipulated time to avoid any delay.

## SOP issued w.r.t. extension of time limit to apply for revocation of cancellation of registration

The CBIC vide **Circular No. 148/04/2021-GST dated May 18, 2021** issued Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017.

As you are aware, vide Finance Act, 2020, section 30 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") was amended and the same has been notified with effect from 01.01.2021 vide notification No. 92/2020-Central Tax, dated 22.12.2020. The amended provision provides for the extension of the time limit for applying for revocation of cancellation of registration on sufficient cause being shown and for reasons to be recorded in writing by:

- (a) The Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days;
- (b) The Commissioner, for a further period not exceeding thirty days, beyond the the period specified in clause (a) above.

Consequently, changes have also been made in rule 23 and **FORM GST REG-21** of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") vide notification No.15/2021- Central Tax, dated 18.05.2021.

To ensure uniformity in the implementation of the provisions of the above rule across the field formations, till the time an independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal, the Board, in the exercise of its powers conferred by section 168 (1) of the CGST Act, hereby provides the following guidelines for implementation of the provision for extension of time limit for applying for revocation of cancellation of registration under the said section and rule.

As has been provided in section 30 of the CGST Act, any registered person whose registration is cancelled by the proper officer on his motion, may apply to such officer in **FORM GST REG-21**, for revocation of cancellation of registration within 30 days from the date of service of the cancellation order. In case the registered person applies for revocation of cancellation beyond 30 days, but within 90 days from the date of service of the cancellation order, the following procedure is specified for handling such cases:

Where a person applies for revocation of cancellation of registration beyond a period of 30 days from the date of service of the order of cancellation of registration but within 60 days of such date, the said person may request, through letter or e-mail, for extension of time limit to apply for revocation of cancellation of registration to the proper officer by providing the grounds on which such extension is sought. The proper officer shall forward the request to the jurisdictional Joint/Additional Commissioner for a decision on the request for extension of the time limit.

The Joint/Additional Commissioner, on examination of the request filed for an extension of time limit for revocation of cancellation of registration and on sufficient cause being shown and for reasons to be recorded in writing, may extend the time limit to apply for revocation of cancellation of registration. If the request is accepted, the extension of the time limit shall be communicated to the proper officer. However, in case the concerned Joint/Additional Commissioner is not satisfied with the grounds on which such extension is sought, an opportunity of personal hearing may be granted to the person before making a decision in the matter. In case of rejection of the request for the extension of the time limit, the grounds for such rejection may be communicated to the person concerned through the proper officer.

On receipt of the decision of the Joint/Additional Commissioner on request for extension of time limit for applying for revocation of cancellation of registration, the proper officer shall process the application for revocation or cancellation of registration according to the law and procedure laid down in this regard.

A procedure similar to that explained in paragraph 4.1 to 4.3 above shall be followed mutatis-mutandis in case a person applies for revocation of cancellation of registration beyond a period of 60 days from the date of service of the order of cancellation of registration but within 90 days of such date.

The circular shall cease to have effect once the independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal.

**The DGFT issued Trade Notice 05/2021-22 dated May 19, 2021 w.r.t. introduction of an online e-EPCG Committee module for accepting applications seeking relaxation in Policy/Procedure in terms of para 2.58 of FTP 2015-20.**

The members of trade are hereby informed that this Directorate is introducing an online e-EPCG Committee module on the DGFT website, a new module as a part of IT Revamp, for receiving applications for seeking relaxation in policy/procedure in terms of para 2.58 of FTP 2015-20.

Henceforth, the applications for seeking relaxations In terms of para 2.58 of FTP 2015-20 under the EPCG Committee would be accepted through online mode only. No manual submission of applications for the same would be allowed. The trade members can log in to the portal, fill in the requisite details in the form, upload the necessary documents and submit the application after paying the requisite fee. The system will generate a file number that can be used for tracking purposes through the portal. The Directorate would issue online deficiency letters calling for any additional information required, and the exporter would be able to reply to the deficiency letters online. The entire processing of the applications and communication of the committee's decision would be in online mode only.

The members of trade can file applications to e-EPCG Committee module through following navigation –  
<https://dgft.gov.in/> –Login using registered user credentials for the IEC holder – Services –EPCG –Apply for EPCG Committee.

### **Further extension in the facility of accepting undertaking in lieu of bond till June 30, 2021 to facilitate the trade during COVID-19 pandemic**

The CBIC issued **Circular No. 09/2021-Customs dated May 08, 2021** for restoring the facility under Circular No. 17/2020 dated 03.04.2020 namely, 'Measure to facilitate trade during the lockdown period-section 143AA of the Customs Act, 1962'. CBIC has decided to restore the facility of acceptance of an undertaking in lieu of bond by Customs formations from the date of issue of this Circular till 30.06.2021. Importers/Exporters availing this facility shall ensure that the undertaking furnished in lieu of bond is duly replaced with a proper bond by 15.07.2021.

### **Generation of GSTR-2B for April 2021**

Rule-60(7) of CGST Rules-2017 prescribes for generation of the auto-drafted statement containing the details of input tax credit in FORM GSTR-2B for counterparty recipients. As per Rule-60(8) of CGST Rules-2017, FORM, GSTR-2B shall be made available to the recipients after the Due date of filing GSTR-1/IFF by the suppliers. Notification No. 12/2021-CT and 13/2021-CT, both dated 1st May 2021, extend the Due date of GSTR-1 and IFF for April 2021, to 26th and 28th May 2021, respectively. Consequently, GSTR-2B for April 2021 will be generated after the Due dates, on 29th May 2021.

Taxpayers willing to file FORM GSTR-3B for April 2021 before GSTR-2B generation may do so on a self-assessment basis. Notification No. 13/2021-CT dated 01.05.2021 prescribes a cumulative limit under Rule-36(4) for ITC claimed in periods April & May 2021.

### **Amendments in GST Rules on 18th May 2021 vide Notification No. 15/2021 - Central Tax**

#### **Rule 138E**

E-waybill can be generated for inward supply to a registered person who has not furnished returns (GSTR 3B/GSTR 1/etc) for 2 consecutive periods. Hence, now waybills cannot be generated ONLY for outward supplies relating to these taxpayers. Previously, no E-Waybill, either for inward supplies or outward supplies relating to these persons, could be generated.

### Rule 90

Now, the taxpayers at any time after filing of refund claim and till the time of issuance of acknowledgement/deficiency memo, but before the issuance of any order/SCN withdraw the refund claim. Any of the following reasons should be given in the Form RFD-1W for withdrawal:

- Filed the refund application by mistake.
- Filed Refund Application under wrong category.
- Wrong details mentioned in the refund application.
- Others (Please Specify)

### Rule 92

Changes in the Form RFD-07 in Part A & Part B which will be used for withholding/ adjustments/ release of refunds.

### Rule 96

Consequential to changes in Form RFD-07 in Part A & Part B which will be used for withholding/ adjustments/ release of refunds.

### Rule 23

Amendment in Rule 23(1) is to align it to Section 30(1) wherein the AC / JC / Commissioner may allow the registered person 1-2 more months beyond 30 days to apply for revocation of cancellation. Corresponding changes have also been made in Form GST REG-21 in the Instructions. These provisions provide some more time for taxpayers whose registration is cancelled to apply for revocation of cancellation.

Compiled by Paridhi Mathur



**As per Circular No 9 of 2021 Dated 20th May ,2021 F.No.225/49/2021-ITA-II  
Govt. of India, Ministry of Finance, Department of Revenue CBDT**

**Extension of time limits of certain compliance to provide relief to taxpayers in view of the severe pandemic:**

SR. NO.	COMPLIANCE	ORIGINAL/ EXTENDED DUE DATE	FURTHER EXTENDED DUE DATE
1.	Filing of Statement of Financial Transactions (SFT) for the FY 2020-21 (Rule 114E of Income Tax Rules)	31-May-2021	30-Jun-2021
2.	Filing of Statement of Reportable Account for the calendar year 2020 (Rule 114G of Income Tax Rules)	31-May-2021	30-Jun-2021
3.	Filing of Q4 TDS Return for the FY 2020-21 (Rule 31A)	31-May-2021	30-Jun-2021
4.	Issue of Form-16 to employees for the FY 2020-21 (Rule 31)	15-Jun-2021	15-July-2021
5.	TDS/TCS book adjustment statement in Form No. 24G for the month of May 2021 (Rule 30 & Rule 37CA)	15-Jun-2021	30-Jun-2021
6.	Filing of Statement of Deduction of Tax from contributions paid by the trustees of an approved superannuation fund for the FY 2020-21	31-May-2021	30-Jun-2021
7.	Statement of Income paid or credited by an Investment fund to its unit holder in Form 64D for PY 2020-21	15-Jun-2021	30-Jun-2021
8.	Statement of Income paid or credited by an Investment fund to its unit holder in Form 64C for PY 2020-21	30-Jun-2021	15-Jul-2021
9.	Due date of furnishing ITR of Individuals & Non-Tax Audit cases for the AY 2021-22	31-Jul-2021	30-Sep-2021
10.	Due date of furnishing Tax Audit Report for the AY 2021-22	30-Sep-2021	31-Oct-2021
11.	Due date of furnishing Report from an Accountant by persons entering into international transactions or specified domestic transactions for PY 2020-21 (u/s 92E)	31-Oct-2021	30-Nov-2021
12.	Due date of furnishing ITR of Tax Audit assessee for the AY 2021-22	31-Oct-2021	30-Nov-2021
13.	Due date of furnishing ITR of Transfer pricing assessee for the AY 2021-22	30-Nov-2021	31-Dec-2021
14.	Due date of furnishing Belated/Revised return for the AY 2021-22	31-Dec-2021	31-Jan-2022

**Clarification 1:** It is clarified that the extension of the dates as referred to in clauses (9), (12) and (13) above shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income is reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds one lakh rupees.

**Clarification 2:** For Clarification 1, in the case of an individual resident in India referred to in sub-section (2) of section 207 of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under this Circular) provided in that Act shall be deemed to be the advance tax.

**Clarification 3:** There is no change in date of filing of TCS.

Compiled by CA Arihant Jain



# Summary on Recommendation in 43rd GST Council Meeting

43rd GST Council Meeting was held on May 28, 2021. Keeping the present scenario in mind, certain important issues were discussed and decisions were taken. We have drafted a summary of key points of the meeting for our regular readers. In addition to the relief measures already provided to the taxpayers vide the notifications issued on 01.05.2021, the following further relaxations are being provided to the taxpayers

## **Recommendations yet to be notified**

### **1. Exemption of GST on Covid-19 related relief:-**

- a. Exemption from IGST has been given on import of following items:-
  - Medical oxygen & oxygen concentrators
  - Other oxygen storage and transportation equipment
  - Diagnostic test kits
  - Amphotericin B (required for treating Black Fungus)
  - COVID-19 vaccines, etc.
- b. This exemption is valid upto 31st August, 2021.
- c. Exemption is available even if purchased or imported for donating to Govt. or to any relief agency upon recommendation of State authority.
- d. Above goods are already exempted from Basic Customs Duty (BCD).

### **2. For other individual items, appointed Group of Ministers who will have to submit their report by 08th June, 2021 recommending other such relaxations for COVID-19 relief.**

### **3. Clarifications/ Amendments in relation to GST Rates:-**

- GST rate of 12% to apply on parts of sprinklers/ drip irrigation systems falling under tariff heading 8424 (nozzle/laterals) to apply even if these goods are sold separately.

IGST will only be levied on repair value of goods re-imported after repairs.

### **4. Services of providing food, including mid-day meal to an educational institution and Anganwadi under any midday meals scheme sponsored by the Government, would be exempted from GST irrespective of the source of funding (govt. grant or corporate donations).**

## 5. Exemption in Education Sector

ervices, which are provided by National Board of Examinations (NBE) or similar Central or State Educational Boards by way of examination where examination fees is charged, will be exempted from GST. Input services relating to such services until now would also be exempt from GST.

## 6. Benefit for Real-estate sector

In the case of Joint Development Agreements, time of supply on the flats/units that are provided by builder to the landowner arises when the completion certificate is received. This effectively means that the landowner might not utilise ITC, now amendment is to be made to pre-pone the GST liability to enable the claim of ITC by the landowner.

**7. Supply of service by milling of wheat/paddy into flour/rice provided to government/local authority under Public Distribution System is exempt if the value of goods in such composite supply does not exceed 25%. Otherwise, it will attract GST at the rate of 5% if supplied to any person registered in GST, including a person registered for payment of TDS.**

**8. GST is payable on annuity payments received as deferred payment for construction of road. Benefit of the exemption is for such annuities, which are paid for the service by way of access to a road or a bridge.**

**9. Services of construction of a ropeway provided to a Government Entity attract GST at the rate of 18%.**

**10. Services supplied by Govt. to its undertaking/PSU by way of guaranteeing loans taken by such entities from banks and financial institutions is exempt from GST.**

## 11. GST Annual Return and Audit

1. GSTR-9C – Reconciliation i.e. GST Audit not to be certified by CAs/ CWAs for 2020-21 and onwards
2. Taxpayers needs to self-certify such Reconciliation Statement. This may lead to substantial increase in responsibility of concerned Authorized Signatory
3. GSTR-9 optional for taxpayers having turnover upto 2 crores
4. GSTR-9C applicable for taxpayers having turnover exceeding 5 crores

## 12. Payment of interest on net cash liability

The amendment in section 50 of the CGST Act providing for payment of interest on net cash basis with effect from 01.07.2017, to be notified at the earliest shall be retrospectively applied.

### 13. Amnesty Scheme to provide relief to taxpayers regarding late fee for pending returns:

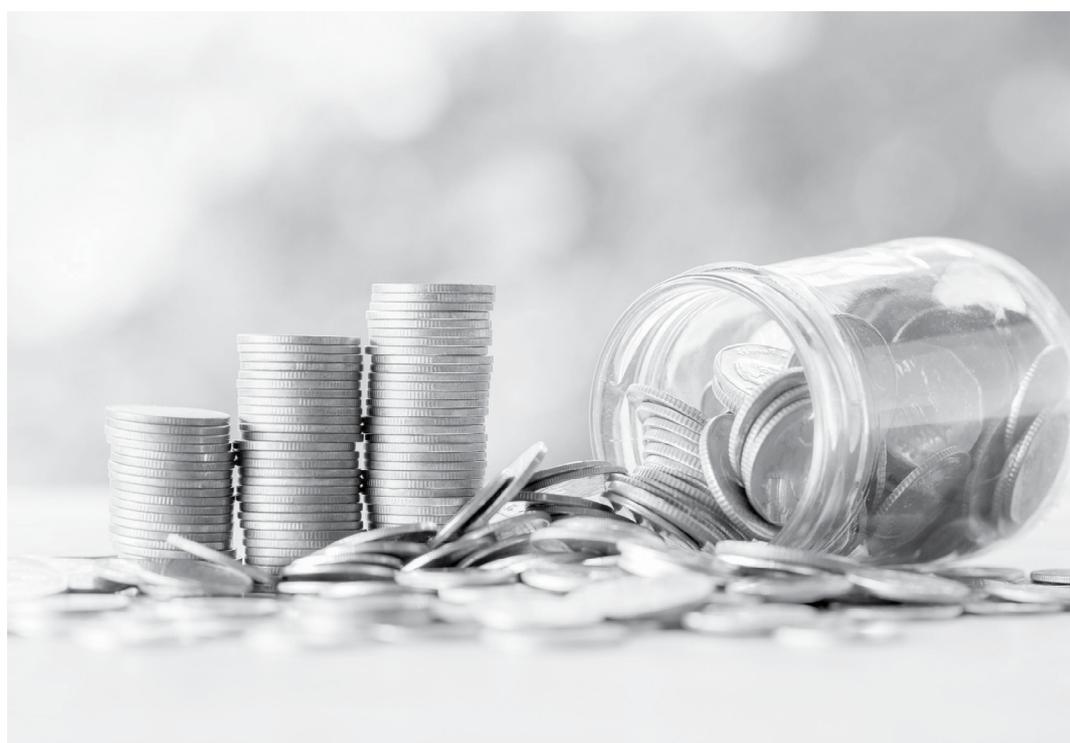
As per Section 47 of CGST/SGST Act 2017, the maximum late fees payable for non-compliance of requisite returns is Rs. 10,000 for each type of tax-payers. Following relaxation has been provided by capping maximum late fees:

Category	Late Fees	Return	Period	Condition
Nil Return	Maximum of Rs. 500 (CGST+SGST) per return	GSTR 3B	July 2017 to April 2021	Returns to be furnished between 01.06.2021 to 31.08.2021
Other than Nil Returns	Maximum of Rs. 1000(CGST+SGST) per return			

#### Recommendations notified

**12. The GST rate on Diethylcarbamazine (DEC) tablets has been reduced to 5% (from 12%) vide Notification no. 1/2021 CT (RATE) dated 01-06-2021**

**13. GST on Maintenance Repair and Operations services to ships/vessels would be 5% instead of 18% and Place of Supply for B2B transactions would be the location of recipient of service, making those transactions as "exports" where the recipient is from Non-taxable territory vide Notification No. 2/2021- CT(RATE) dated 02-06-2021**



## 14. Rationalization of late fees imposed under section 47 of CGST/SGST Act prospectively

Category	Late Fees	Return
For NIL Return	Maximum of Rs 500/- (CGST+SGST)	GSTR-3B/GSTR-1 vide Notification No. 20/2021 – CT dated 01-06-2021
For other than NIL Return (Annual Aggregate Turnover in preceding FY upto Rs 1.5 crore)	Maximum of Rs 2000/- (CGST+SGST)	GSTR-3B/GSTR-1 vide Notification No. 20/2021 – CT dated 01-06-2021
For other than NIL return (Annual Aggregate Turnover in preceding FY is between Rs 1.5 crore & Rs 5 crore)	Maximum of Rs 5000/- (CGST+SGST)	GSTR-3B/GSTR-1 vide Notification No. 20/2021 – CT dated 01-06-2021
For other than NIL Return (Annual Aggregate Turnover in preceding FY is above Rs 5 crore)	Maximum of Rs 10000/- (CGST+SGST)	GSTR-3B/GSTR-1 vide Notification No. 20/2021 – CT dated 01-06-2021
For NIL Return	Maximum of Rs 500/- (CGST+SGST)	FORM GSTR-4 by composition tax-payers vide notification CT 21/2021 dated 01-06-2021
For other than NIL Returns	Maximum of Rs 2000/- (CGST+SGST)	FORM GSTR-4 by composition tax-payers vide notification CT 21/2021 dated 01-06-2021
For TDS returns	Rs 50/- per day (CGST+SGST) & to be capped to a maximum of Rs 2000/- (CGST+SGST)	FORM GSTR-7 (TDS RETURN) vide notification no 22/2021 CT dated 01-06-2021

## 15. Relaxation in Interest Applicability filing Form GSTR-3B vide notification no. 18/2021 CT dated 01-06-2021

Sr. No.	Taxpayer Having an Aggregate Turnover in the Preceding FY	Interest Applicability	Tax Period	Due Date
1.	More than INR 5 Cr.	9 per cent for the first 15 days from the due date and 18 per cent there after.	March, 2021	20.04.2021
			April, 2021	20.05.2021
			May, 2021	20.06.2021
2.	Up to INR 5 Cr. (Non-QRMP)	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter.	March, 2021	20.04.2021
			April, 2021	20.05.2021
			May, 2021	20.06.2021
3.	Up to INR 5 Cr. (QRMP)	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter.	March, 2021	As per State wise Due Date Table
			April, 2021	25.05.2021
			May, 2021	25.06.2021
4.	Composition Dealer	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter.	Quarter ending March, 2021	18.04.2021

## 16. Relaxation in GSTR 3B Late Fees vide Notification No. 19/2021 – CT dated 01-06-2021

Sr. No.	Taxpayer Having An Aggregate Turnover in the Preceding FY	Nil Late fees if filed within	Tax Period	Due Date
1.	More than INR 5 Cr.	15 from the due date	March, 2021	20.04.2021
			April, 2021	20.05.2021
			May, 2021	20.06.2021
2.	Up to INR 5 Cr. (Non-QRMP)	60 days from the due date	March, 2021	20.04.2021
		45 days from the due date	April, 2021	20.05.2021
		30 days from the due date	May, 2021	20.06.2021
3.	Up to INR 5 Cr. (QRMP)	60 days from the due date	March, 2021	As per State wise Due Date Table
		N.A.	April, 2021	GSTR 3B not required to file under QRMP
			May, 2021	

### State wise Due Dates GSTR 3B for Taxpayers under QRMP

State	Tax Period	Due Date
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	Quarter ending March, 2021	22.04.2021
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	Quarter ending March, 2021	24.04.2021

### 17. Relaxation in filing of GSTR 1

GSTR	Tax Period	Due Date	Extended Due Date
GSTR 1 (Non QRMP)	May 2021	11.06.2021	26.06.2021
GSTR 1 (QRMP)	May 2021	13.05.2021	Taxpayer may furnish details using IFF between 01.06.2021 to 28.06.2021

## 18. Other Relaxations

Compliance	Tax Period	Relaxation
GSTR-4	FY 2020-21	Due date extended till 31st July 2021 vide notification 25/2021 CT dated 01-06-2021
FORM ITC-04	Quarter ending March 2021	Due date extended till 30th June 2021 vide notification 26/2021 CT dated 01-06-2021
Filing of returns by Companies through EVC.	Till 31st August 2021	Filing of returns using EVC instead of DSC by Companies extended up to 30th August, 2021 vide notification no. 27/2021 CT dated 01-06-2021
Time limit for completion of various actions, by any authority or by any person, under the GST Act, which falls during the period from 15 April, 2021 to 29 June, 2021,	15 April, 2021 to 29 June, 2021	Extended upto 30th June, 2021, subject to some exceptions 24/2021 CT dated 01-06-2021

## 19. Relaxation in Rule 36(4) vide notification no. 27/2021 CT dated 01-06-2021

It has been decided by Government to allow taxpayers to take effect of Rule 36(4) (i.e. availing ITC as per GSTR 2A/2B) cumulatively in GSTR 3B of June 2021 for Tax period April 2021, May 2021 and June 2021.

## 20. Relaxation in Rejection of Refund Claim vide Notification No 24/2021 dated 01.06.2021

In cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuance of order in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of the said Act falls during the period from the 15th day of April, 2021 to the 30th day of May, 2021, In such cases the time limit for issuance of the said order shall be extended to

Fifteen days after the receipt of reply to the notice from the registered person	Whichever is later
30th day of June, 2021	

# Judicial Pronouncements

## Judgement 1

### **Tvl.Mehar-Tex Vs Commissioner of Central GST And Central Excise [Madras High Court] W.P.(MD)NO.22996 OF 2019**

#### **Issue:**

Whether the assessee's claim for refund of CGST and IGST can be denied on the ground that the entire refund amount got consolidated under one head i.e. SGST, due to the technical error in GSTN?

#### **Facts:**

The Petitioner is an exporter and has made zero-rated sales during October 2017, November 2017 and February 2018. Accordingly, Petitioner stated that he is entitled to refund the claim of SGST for the October month, CGST for the November month and CGST, SGST and IGST for the February month. However, when the refund applications were uploaded, the entire claim got consolidated and figured under the head SGST alone.

While considering the refund applications, the department restricted the refund claim to the extent of the Petitioner's liability for the respective months only under the head of SGST under Rule 92 of the CGST Rules and issued notice to show cause as to why refund of CGST and IGST should not be rejected. Subsequently the, Petitioner replied to the above show cause notice stating that the entire refund claim got auto-populated under a single head of SGST.

However, the Respondent rejected the refund claims made in respect of CGST and IGST on the ground that the Petitioner has not furnished any documentary proof in support of his claims.

#### **Analysis**

The respondent contended that they considered the claim of refund made by the petitioner under the head of SGST and granted relief to the limited extent available.

If, according to the petitioner, there was some technical error due to technical glitches, it was the responsibility of the petitioner to have brought it to the notice of the concerned authority for taking immediate action. In the case on hand, the petitioner has not done so.

When the petitioner has received a show-cause notice for the rejection of the refund application, the petitioner in his reply dated 24.01.2019 and 14.05.2019, had categorically stated that they filed refund application indicating that the entire refund claim got auto-populated under a single head, namely, SGST.

The petitioner has provided the supporting invoices and documents furnished as proof of exports which were found to be in order.

The Court observed that the petitioner could not be expected to produce proof, if it has occurred due to error on the part of any software in GSTN.

The petitioner had submitted the refund applications manually. The Court even held if the petitioner was otherwise eligible to refund, on the ground of technical glitches and error having occurred due to auto-population, the petitioner ought not to be denied relief.

### **DCO Excerpts:**

-The assessee has a substantive right to claim refund arising from the law.

-If due to technical errors or glitches in GSTN, the eligible refund claim has not been lodged in the system, the entitlement of refund of the assessee cannot be denied and it will be unfair on the part of authorities to do so.

-Hence assessee must always lodge their eligible refund claim manually in case of any technical error of the system and inform the authorities of technical glitches faced. The judicial principles will lean to protect the substantive right of assesseees in such cases.

(Compiled by Naman Jain and CA Shuchi Sethi)



# Judgement 2

## **M/s DAYAMAY ENTERPRISE Vs STATE OF TRIPURA [2021-TIOL-1006-HC-TRIPURA-GST]**

### **Issue:**

Cancellation of GST registration without citing any particular reason and without specifying provisions of the Act or Rules invoked and blocking of GST account of the official portal.

### **Facts:**

A show-cause notice was issued to the petitioner for cancellation of registration based on following reason- "Non-compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed."

The petitioner was asked to furnish a reply within seven working days from the date of service of this notice or to appear before the undersigned on 24/12/2020 at 11:30. It was mentioned that his registration stands suspended with effect from 16/12/2020.

The petitioner did not reply to the said show-cause notice within seven days permitted; however, replied on or around 1st January 2021. After that, the superintendent of Taxes has not passed any order in connection with the said show-cause notice. The petitioner finds that his GST account is blocked on the GST portal.

The petitioner has challenged the communication issued from Department calling upon to appear for personal hearing as to why the petitioner's registration under GST Act not be cancelled. The petitioner has also questioned the action of the respondents in blocking the petitioner's registration on the portal of the department.

The respondent submitted that the petitioner has substantial dues of the department, which despite notices he has not paid.

### **Analysis**

The impugned notice has been issued only for cancellation of petitioner's registration, that too without citing any particular reason. The reason stated is picked up from the statute itself without specifying which provisions of the Act or the Rules is violated.

The Court clearly held that whatever be the tax the demand of the department against the petitioner, the action under challenge cannot survive the test of law.

Without specifying which provisions of the Act or the Rules and in what manner the petitioner has approached, granting a hearing to the petitioner would be an empty formality.

In fact, no order cancelling the petitioner's GST registration has been passed, and still GST account of the assessee has been blocked on the portal.

The Court observed that without resorting to the power of suspending the registration, the respondent indeed cannot block the petitioner's GST

account on the official portal.

Any such action would prevent the petitioner from carrying on his business in a lawful manner. Such action would have the effect of suspension of the petitioner's registration and would prevent the a petitioner from carrying on his business in lawful manner.

Under the circumstances, impugned show cause notice is quashed on the ground of being vague and imprecise.

**Conclusion:**

The respondents have been directed to unblock the petitioner's GST account on its official portal. Further, Court has stated that any dues of the assessee can be recovered in accordance with law.

**DCO Excerpts:**

-The Tax Authorities cannot arbitrarily block the GST account of an assessee on the official portal without resorting to powers of suspension of registration under the law.

-The powers can be exercised by following the procedure of the law including issue of a Show Cause Notice with reasons for invoking suspension, proper opportunity of hearing and a tenable order issued under the law.

-Any such action hampering the conduct of business beyond the process cannot hold good under the eyes of law and must be brought before the judicial authorities.

(Compiled by Muskan Aggarwal and CA Shuchi Sethi)



# Expert's Insight



## GST Implication on CSR Activities

### Introduction

In the current situation of the pandemic, companies are voluntarily coming forward to help society in various ways, either by distributing essentials, or by donating numerous amount, organising camps, etc. Such activities are also mandatorily required to be done by prescribed companies as Corporate Social Responsibility under Companies Act, 2013. However, GST implication on CSR activities has been a controversial affair. In this article, we have tried to answer frequently raised questions.

### Important Provision

#### Section 135(1) of Companies Act, 2013

Every company having a net worth of rupees five hundred crores or more, or turnover of rupees one thousand crores or more or a net profit of rupees five crores or more during immediately preceding the financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.

#### Section 135(1) of Companies Act, 2013

The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.

#### Section 16(1) of CGST/SGST Act 2017

Every registered person shall, subject to such conditions and restrictions as may be prescribed<sup>75</sup> and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

## **Section 17(5)(h) of CGST/SGST Act 2017**

Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;

## **Entry 1 to Schedule-I to the CGST Act, 2017**

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

## **Eligibility of ITC on CSR Expenses**

Let us first understand what Corporate Social Responsibility is, and whether or not, it is in course of furtherance of business for availing credit u/s 16(1).

Corporate Social Responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. Section 135 of the Companies Act, 2013 mandates every company having a specified net worth or turnover or profit, to contribute at least two per cent of its average net profit towards satisfying its corporate social responsibility. CSR includes activities like eradicating extreme hunger and poverty, charitable giving, volunteering in community, imparting employment enhancing vocational skills, promoting gender equality, etc.

Now the next question that emerges is, whether or not such CSR activities are eligible for availing ITC on transactions being in course of furtherance of business.

Section 16(1) of the CGST Act provides that a registered person is eligible to avail the credit of goods or services supplied to it and used by it in the course or furtherance of business subject to Section 17(5) of the CGST Act, which says input tax

credit is not available in respect of supplies listed therein, notwithstanding anything contained in Section 16(1) of the CGST Act. Therefore, for availing ITC a supply must be procured in the course or furtherance of the business and should not be covered by Section 17(5) of the CGST Act. However, there are two contradictory thoughts running in opposite directions, one that CSR activities are mandatory for business sustainability, and therefore, shall be considered in course of furtherance of business. The other thought comments that such CSR activities in form of donation do not have direct nexus with business, and therefore, shall not be eligible. There are a few judgements in this regard which might help.

One of the most pertinent cases in reference to this is the case of Essel Propack Ltd. v. Commissioner of CGST wherein the CESTAT (Bombay) in the context of Service Tax held that CSR Activities are input service for the purpose of availing CENVAT Credit after considering the mandatory requirement of CSR under Companies Act, 2013 and other direct & indirect advantages which the Corporate derives by discharging CSR. By allowing CENVAT credit in respect of CSR expenditure, this decision is in further litigation on this subject.

AAR Uttar Pradesh has recently held CSR activity to be used in the course or furtherance of business. The companies which meet the criteria for CSR have to mandatorily undertake CSR activities and it therefore forms a part of the business itself. Taking this into consideration, the Authority concluded that ITC in terms of Section 16, CGST Act, is to be allowed on such transactions.

On the contrary, the Appellate Authority on Advance Ruling, Odisha in the case of National Aluminum Co. Ltd., has affirmed an Advance Ruling with contradictory remarks. AAAR held that ruling of the AAR that services availed in relation to plantation and gardening within the plant area, including mining area and the premises of other business establishments will qualify for an input tax credit is found to be correct and added that "Creation and maintenance of green area/zone inside plant/mining/office premises is a business necessity for controlling pollution as well as atmospheric temperature. It is also a requirement for preventing soil erosion. This is also mandated in various laws under which the appellant conducts its business such as the Forest Conservation Act, the Environment Protection Act, etc. Therefore, such activities are integral to the business activity of the appellant and can be treated as activities in course or furtherance of its business". Although in the same ruling, AAAR has not allowed ITC on plantation done outside business/plant premises for discharging CSR, being not integrally related to business but welfare activities.

Further, CSR cannot be treated as a gift, as the delivery of the gift is made voluntarily, and therefore, cannot assume the character of gifts. As may be noticed from the Gift Tax Act, the definition of gift necessarily includes any transfer made voluntarily and without consideration. Since the activity is mandated on companies, and therefore, any CSR activities cannot be termed as a gift. Thus, accordingly, CSR is not falling under the purview of Section 17(5) of the Act, thus ITC can be availed in CSR cases.

### **Outward Liability on goods provided during CSR**

Alternatively, another argument that can be raised is whether or not, output GST shall be charged on goods (either manufactured in house or procured from outside) provided to discharge CSR by virtue

of Entry 1 to Schedule-I to the CGST Act, 2017, which treats permanent transfer of business assets where ITC has been availed on such assets as supply, even if made without consideration.

Apparent reading of the words 'on such assets' given at the end of Entry 1 to Schedule-I of CGST Act, 2017 can be read as 'with reference to'. Entry 1 to Schedule I only covers cases where ITC has been availed 'on' such assets and, not its raw materials. Hence, if in-house manufactured goods are provided during CSR, the same are not covered under said entry as input tax credit has not been availed on such goods.

Further, goods procured from outside and simultaneously provided to discharge CSR cannot be accounted for as business assets; the same shall be treated as an expenditure. Therefore, it can be concluded that the aforementioned movement cannot be considered as deemed supply.

### **Conclusion**

Based on aforesaid, it can be said that the ITC on the CSR expenses should be allowed, and the same could not be restricted under section 17(5) (h). Also, goods provided for discharging CSR without consideration, whether manufactured in-house or procured from outside shall not be treated as deemed supply.

Written by CA Shefali Jain Bang



## Matching Offline Tool under QRMP Scheme

1. The Matching Offline Tool has been updated and now taxpayers under QRMP Scheme will also be able to use it.
2. The system generated Form GSTR-2B JSON file can be used for matching details, as available with them in their purchase register, using the updated Matching Offline Tool.
3. Taxpayers under QRMP Scheme can now navigate to Services > Returns > Returns Dashboard, select the Financial Year and Return Filing Period > SEARCH and click on Download button on Auto – drafted ITC Statement – GSTR -2B tile to download system generated Form GSTR-2B JSON file, for opening and matching it in the matching tool.
4. In the Matching tool dashboard page, an option to select the quarter has been provided and in the purchase register, quarters Apr-Jun, Jul-Sep, Oct-Dec and Jan-Mar have been added as the tax periods.

Dashboard Services GST Law Downloads Search Taxpayer Help and Taxpayer Facilities e-Invoice

Home Downloads Return

### Matching Offline Tool v2.0

The Matching Offline Tool can be used to:

1. View GSTR-2B (Auto-drafted Input tax credit (ITC) statement)
2. Match GSTR-2B with Purchase register

To install the tool, please download, extract the zip file and run the [Download](#)

Your downloaded (Matching\_Offline\_Tool) zip file contains:

- GSTR2B\_Matching\_Tool\_v2.0.exe (Application)
- Purchase Register Excel Template
- Readme
- User Manual
- Change History

**Important!**

- Before you extract and run the downloaded file, ensure that the file is not corrupted. How do I know that my file is not corrupt? Click [here](#) to know more.
- Go through the **Readme** document before you begin installation.
- Double-click on **GSTR2B\_Matching\_Tool\_v2.0.exe** to install the offline tool.

**What's new v2.0(Released on 27/03/2021)**

- Feature has been enabled to view Quarterly GSTR-2B in the matching tool and match the same with the purchase register for the quarter.

**System Requirement**

To use the tool efficiently, ensure that you have the following installed on your system:

1. Operating system → Windows 7 or above. The tool does not work on Linux and Mac.
2. Browser: You need one of these browsers installed on your system:

New On GSTN Portal

## Generation of Form GSTR-11, based on Form GSTR-1/5

UIN holders are required to file details of purchases (inward supplies) in their Form GSTR-11. Now their Form GSTR-11 will be generated on the basis of Form GSTR-1 & Form GSTR-5, filed by their supplier taxpayers. This will facilitate UIN holders in filing their refund claim.

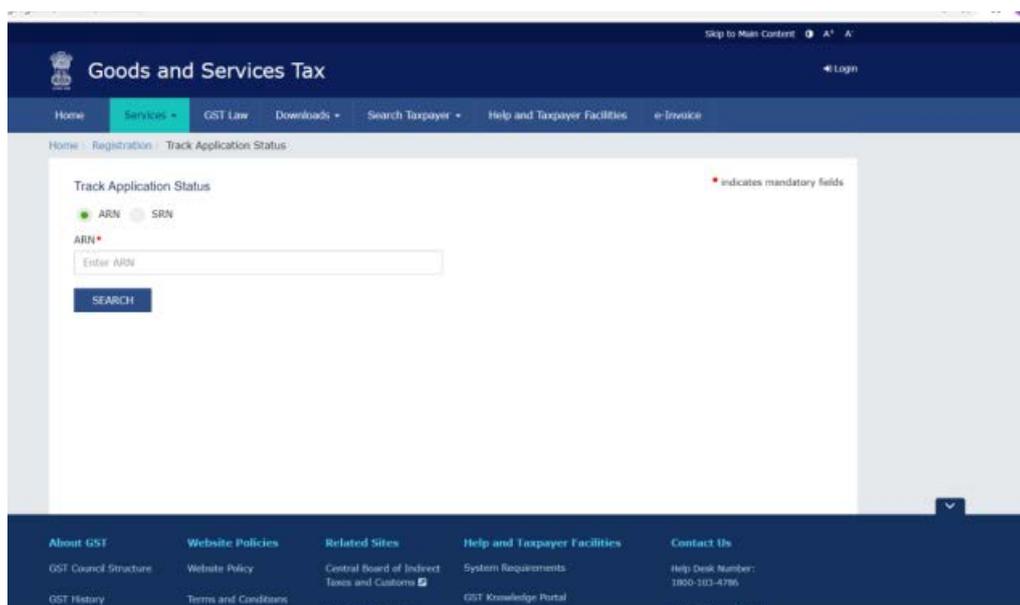
## Rate of tax column added in GSTR-1 for each HSN/SAC furnished in HSN summary

In GSTR-1 against serial number 12, in the Table, in column 6, the words 'Total Value' have been replaced with 'Rate of Tax' for each HSN/SAC furnished in HSN summary from the return for tax period of May 2021 onwards. This amendment has been previously notified vide serial no. 7 of the Notification No. 79/2020-Central Tax dated October 15, 2020.

## Refund application can be tracked without logging into GST Portal

### Track without logging into the GST portal.

Navigate to Services > Track Application Status > Select the Refund option > Enter ARN > Click SEARCH to track your refund application without logging into the GST Portal.



## DGFT has released a User Manual & Frequently Asked Questions (FAQs) v1.0 for Service Exports from India Scheme (SEIS) Module.

This document is the help file for SEIS functions in the new system such as applying SEIS, amendments in SEIS, replying to deficiency, etc. The complete user manual can be accessed at:

<https://content.dgft.gov.in/Website/DGFT%20%20SEIS%20Module%20User%20Help%20File.pdf>

Compiled by Vidhi Agarwal



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