



Dhadda & Co.
CHARTERED ACCOUNTANTS

DCoD

DCo Digest

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Newsletter



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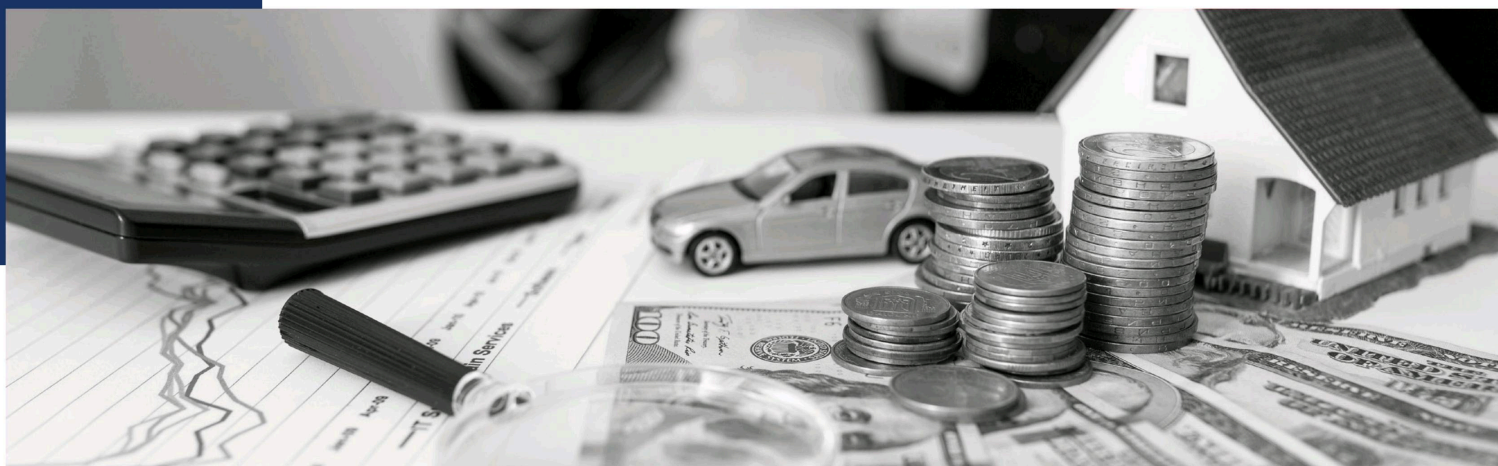
Yet again, we present our readers with another insightful edition of our DCO Digest.

The GST Department has now stirred into action. In past few months, the taxpayers have been bombarded with GST Notices and orders which has resulted and will continue to result in litigation. With a hope that taxpayers will get relief from unwanted notices, in this publication we have compiled recent judicial rulings along with the GST updates introduced through notifications and circulars.

In the expert's insight section, we have discussed the validity of GST show cause notices and orders which shall serve as a guide for businesses and professionals navigating the intricate landscape of taxation, promoting transparency and adherence to statutory norms. We are also proud to inform our readers that the Article written by CA Mohit Gupta was selected to be published on Tax Guru.

Enjoy Reading!

Preface



GST Updates

Introduction of Compliance Pertaining to DRC-01C

The Government vide Notification No. 38/2023-Central Tax dated 04th Aug, 2023 inserted the Rule 88D in CGST Rule, 2017 dealing with difference in Input tax credit available in GSTR-2B and ITC availed in GSTR-3B. This functionality vis a vis this rule has now started operating on the GST portal.

The system now compares the ITC available as per GSTR-2B/2BQ with the ITC claimed as per GSTR-3B/3BQ for each return period. If the claimed ITC exceeds the ITC available as per GSTR-2B by predefined limits, as directed by Competent authority, the taxpayer shall receive an intimation in the form of Form DRC-01C.

Upon receiving the intimation, the taxpayer must file a response using Form DRC-01C Part B. The taxpayer has the option to either provide details of the payment made to settle the difference using Form DRC-03 or provide an explanation for the difference out of the options provided in the form or even choose a combination of both options and file it.

In case, no response is filed by the impacted taxpayers in Form DRC-01C Part B, such taxpayers will not be able to file their subsequent period GSTR-1/IFF.

Export of Services

Condition(s) of sub-clause (iv) of Section 2(6) of the IGST Act, 2017 (realisation in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India), can be considered to be fulfilled when proceeds realised in INR from the balances in the designated Special Vostro Account of the correspondent bank of the partner trading country in terms of Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, as mandated by RBI's A.P. (DIR Series) Circular No.10 dated 11th July, 2022 and reiterated further in Foreign Trade Policy, 2023.

CIRCULAR NO. 202/14/2023-GST [F.NO. 20/06/22/2023-GST-CBEC],
DATED 27-10-2023.

Clarification regarding Place of Supply

Clarification has been issued on certain issues with respect to determination of place of supply in case of –

- i. supply of service of transportation of goods, including through mail and courier;
- ii. supply of services in respect of advertising sector; and
- iii. supply of the “co-location services”.

Sr No	Issues	Clarification
A. Place of supply in case of supply of service of transportation of goods, including through mail and courier		
1.	Section 13(9) of IGST Act has been omitted w.e.f. 01.10.2023. After the said amendment, doubts have been raised as to whether the place of supply in case of service of transportation of goods, including through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India, will be determined as per 13(2) or 13(3)	<p>1.1 Section 13(9) of IGST Act provided that where one of the supplier of the services or the recipient of services is located outside India, the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.</p> <p>1.2 It is hereby clarified that after omission of Section 13(9), the place of supply of services of transportation of goods, other than through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India, will be determined by the default rule under section 13(2) of IGST Act and not as performance-based services under Section 13(3) of IGST Act. Accordingly, in cases where location of recipient of services is available, the place of supply of such services shall be the location of recipient of services and in cases where location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.</p>

		<p>1.3 On the same principles as mentioned above, the place of supply in case of service of transportation of goods by mail or courier will continue to be determined by the default rule under section 13(2) of IGST Act i.e. in cases where location of recipient of services is available, the place of supply of such services shall be the location of recipient of services and in cases where location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.</p>
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B. Place of supply in case of supply of services in respect of advertising sector

<p>2.</p>	<p>(i) Cases wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. The place of supply of services provided by the vendor to the advertising company in such case shall be:</p>	<p>2.1 Place of supply in Case (i): The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of IGST Act.</p> <p>As per section 12(3)(a) of IGST Act, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the location at which the immovable property is located. Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to</p>
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	<p>(ii) Case where the advertising company wants to display its advertisement on hoardings/ bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ bill boards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/ structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. The place of supply of such services provided by the vendor to the advertising company shall be:</p>	<p>use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.</p> <p>2.3 Place of supply in Case (ii): In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property.</p> <p>Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location. Therefore, such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which Place of Supply shall be determined in terms of Section 12(2) of IGST Act.</p>
<p>C. Place of supply in case of supply of the "co-location services"</p>		
<p>3.</p>	<p>Co-location is a data center facility in which a business/ company can rent space for its own servers and other computing hardware along with various other bundled services related to Hosting and information technology (IT) infrastructure.</p>	<p>3.1 It is clarified that the Co-location services are in the nature of "Hosting and information technology (IT) infrastructure provisioning services" (S.No. 3 of Explanatory notes of SAC-998315).</p>

<p>A business/company who avails the co-location services primarily seek security and upkeep of its server/s, storage and network hardware; operating systems, system software and may require to interact with the system through a web-based interface for the hosting of its websites or other applications and operation of the servers. In this respect, various doubts have been raised as to:</p> <p>i. whether supply of co-location services are renting of immovable property service (as it involves renting of space for keeping/storing company's hardware/servers) and hence the place of supply of such services is to be determined in terms of provision of clause (a) of sub-section (3) of Section 12 of the IGST Act which is the location where the immovable property is located; or</p> <p>ii. whether the place of supply of such services is to be determined by Section 12 (2) of the IGST Act as the supply of service is Hosting and Information Technology (IT) Infrastructure Provisioning services involving providing services of hosting the servers and related hardware, security of the said hardware, air conditioning, uninterrupted power supply, fire protection system, network connectivity, backup facility, firewall services, 24 hrs monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc.</p>	<p>Such services do not appear to be limited to the passive activity of making immovable property available to a customer.</p> <p>3.2 In such cases, supply of collocation services cannot be considered as the services of supply of renting of immovable property. Therefore, the place of supply of the collocation services shall not be determined by Section 12(3) of the IGST Act but the same shall be determined by the Section 12(2) of the IGST Act i.e. location of recipient of co-location service.</p> <p>3.3 However, in cases where the agreement between the supplier and the recipient is restricted to providing physical space on rent along with basic infrastructure, without components of Hosting and Information Technology (IT) Infrastructure Provisioning services and the further responsibility of upkeep, running, monitoring and surveillance, etc. of the servers and related hardware is of recipient of services only, then the said supply of services shall be considered as the supply of the service of renting of immovable property. Accordingly, the place of supply of these services shall be determined Section 12(3) of the IGST Act which is the location where the immovable property is located.</p>
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CIRCULAR NO. 203/15/2023-GST [F.NO. 20/06/22/2023-GST-CBEC],
 DATED 27-10-2023

'Same line of business' in case of passenger transport service and renting of motor vehicles includes leasing of motor vehicles without operator

Services of transport of passengers by any motor vehicle (SAC 9964) and renting of motor vehicle designed to carry passengers with operator (SAC 9966), where the cost of fuel is included in the consideration charged from the service recipient attract GST at the rate of 5% with input tax credit of services in the same line of business.

Same line of business means "service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle".

It is now clarified that input services in the same line of business include transport of passengers (SAC 9964) or renting of motor vehicle with operator (SAC 9966) and not leasing of motor vehicles without operator (SAC 9973) which attracts GST and/or compensation cess at the same rate as supply of motor vehicles by way of sale. CIRCULAR NO. 206/18/2023-GST [F.NO. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

GST applicability on reimbursement of electricity charges

Clarification has been issued on the applicability of GST on supply of electricity by the real estate companies, malls, airport operators etc., to their lessees or occupants. It is clarified that whenever electricity is being supplied bundled with renting of immovable property and/or maintenance of premises, as the case may be, it forms a part of composite supply and shall be taxed accordingly. The principal supply is renting of immovable property and/or maintenance of premise, as the case may be, and the supply of electricity is an ancillary supply as the case may be. Even if electricity is billed separately, the supplies will constitute a composite supply and therefore, the rate of the principal supply i.e., GST rate on renting of immovable property and/or maintenance of premise, as the case may be, would be applicable.

However, where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers etc., as a pure agent, it will not form part of value of their supply. Further, where they charge for electricity on actual basis that is, they charge the same amount for electricity from their lessees or occupants as charged by the State Electricity Boards or DISCOMs from them, they will be deemed to be acting as pure agent for this supply.

ITC restriction on Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration

The notification No. 12/2023- CT(Rate) dated 19-10-2023 introduces alterations to the tax rate conditions for services related to transportation by motor cabs. It now restricts the input tax credit if the supplier of an input service in the same line of business charges Central tax at a rate higher than 2.5%. Tax credit can only be claimed on the input service in the same line of business to the extent of tax paid or payable at the rate of 2.5%. The provision is elucidated through an illustration that emphasizes the credit limitation in cases of varying tax rates.

Illustration:

'A' engages 'B' for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. 'B', for supplying the said service, hires a motor cab with operator from 'C' for Rs. 800. 'C' charges 'B' central tax at the rate of 6% (Rs. 48). If 'B' charges 'A' central tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by 'C' only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48."

ITC Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration

The notification No. 12/2023- CT(Rate) dated 19-10-2023 serial number 8 of notification No. 11/2017- CT(Rate) and relate to the hiring of motor cabs for transportation services. The condition states that if the supplier of an input service in the same line of business charges Central tax at a rate higher than 2.5%, the recipient can only claim a credit of input tax equivalent to the tax paid or payable at the rate of 2.5%. An illustrative example is included for clarity.

Illustration:

'A' engages 'B' for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. 'B', for supplying the said service, hires a motor cab with operator from 'C' for Rs. 800. 'C' charges 'B' central tax at the rate of 6% (Rs. 48). If 'B' charges 'A' central tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by 'C' only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48."

Clarification on taxability of Guarantee by Director to Bank/Financial Institutions for availing Credit Facilities

As per Explanation (a) to section 15 of CGST Act, the director and the company are to be treated as related persons. As per clause (c) of sub-section (1) of section 7 of the CGST Act, 2017, read with S. No. 2 of Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply even if made without consideration. Accordingly, such service is to be treated as a supply of service, even when made without consideration.

Value of Supply - Rule 28 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") prescribes the method for determining the value of the supply of goods or services or both between related parties which shall be the open Market value of such supply.

However, as per RBI Mandate, in terms of Para 2.2.9 (C) of RBI's Circular No. RBI/2021-22/121 dated 9th November, 2021, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits.

As such, when no consideration can be paid for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/ transaction having any open Market value. Accordingly, the open Market value of the said transaction/ supply may be treated as zero and therefore, taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.

Clarification on taxability of Corporate Guarantee to Bank/Financial Institutions for availing Credit Facilities

Sub-rule (2) has been inserted in rule 28 of CGST Rules vide Notification No. 52/2023 dated 26.10.2023, for determining the taxable value of such supply of services between related persons (holding and subsidiary) in respect of providing corporate guarantee. Consequent to insertion of the said sub-rule in rule 28 of CGST Rules, in all such cases of supply of services by a related person to another person, or by a holding company to a subsidiary company, in the form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value of such supply of services, will henceforth be determined as per the provisions of the sub-rule (2) of Rule 28 of CGST Rules, irrespective of whether full ITC is available to the recipient of services or not.

Time Limit Extended

The Government, on the recommendations of the Council, has extended the time limit specified under sub-section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of Input tax credit wrongly availed or utilized, relating to the period as specified below, namely:–

- (i) for the financial year 2018-19, up to the 30th day of April, 2024;
- (ii) for the financial year 2019-20, up to the 31st day of August, 2024.

Compiled by CA Dinesh Chandak

Judicial Pronouncements

Supreme court quashes department's plea against high court order on denial of input tax credit due to mismatch between GSTR 2A and GSTR 3B

M/s Suncraft Energy Private Limited and Another v. The Assistant Commissioner, State Tax

[Special Leave Petition (C) No. 27827-27828 of 2023 dated December 14, 2023] – Supreme Court

Facts:

M/s. Suncraft Energy Private Limited (herein after called "the Respondent") sells goods to the customers and charges GST from them and at the time of filing Form GSTR-3B avails ITC on inward supplies. However, some suppliers did not disclose the supplies in their Form GSTR-1 of the financial year 2017-18. Accordingly, such transactions never auto-populated in Form GSTR-2A of the respondent. The Revenue Department (herein after called "the Petitioner") issued notice to the respondent based on mismatch of ITC between Form GSTR-2A and Form GSTR-3B and directed respondent to reverse the excess ITC claimed during the FY 2017-18 on basis of ITC mismatch in Form GSTR-3B and GSTR-2A.

The respondent filed the reply to the SCN, inter alia denying the allegations stated in the SCN and submitted that he has paid the taxes to the supplier pertaining to the transaction and only thereafter has availed the ITC on said inward supplies.

The Respondent further contended that despite having fulfilled all the conditions as enumerated under Section 16(2) of the Central Goods and Services Tax Act, 2017 ("the CGST Act") the Department erred in reversing the credit availed and has directed the respondent to deposit the tax that had already been paid to the supplier at the time of purchasing goods and services.

However, the said reply is completely ignored by the Adjudicating Authority and passed an order to demand for payment of tax along with applicable interest and penalty. Aggrieved by the Impugned order, the respondent filed an appeal before the Hon'ble Calcutta High Court.

The Hon'ble Calcutta High Court in this case set aside the order of Adjudicating Authority of reversing excess credit availed in Form GSTR-3B as compared to Form GSTR-2A and held that the demand notice issued to the Respondent for reversing the ITC could not be sustained without proper inquiry into the supplier's actions.

Aggrieved by the Impugned Order, the Petitioner filed a Special Leave Petition before the Hon'ble Supreme Court of India.

Dismissal of petition by Supreme Court

The Hon'ble Supreme Court reaffirmed the order passed by the Hon'ble Calcutta High Court in case of M/s. Suncraft Energy Private Limited vs. The Assistant Commissioner, State Tax, wherein the Court set aside the order of reversing excess credit availed in Form GSTR-3B as compared to Form GSTR-2A and held that the demand notice issued to the petitioner for reversing the ITC could not be sustained without proper inquiry into the supplier's actions.

Dismissal of petition by Supreme Court

-The Supreme Court rules that the authorities must investigate the defaulting party and must not deny credit of the recipient of supply.

-Dismissal of petition by the Supreme Court gives relief to the thousand taxpayers who made genuine transactions with the suppliers.

Compiled by CA Divya Gupta

M/s. AB Enterprises v. Commissioner of Goods and Services Tax
[WP (C) 7919 of 2023 dated November 21, 2023] – Delhi High Court

Issue:

Whether Refund Application is deficient when the conditions stated under Rule 89(2) of the CGST Rules are fulfilled?

Facts:

M/s. AB Enterprises (herein after called “the Petitioner”) has filed the refund application for unutilized Input Tax Credit (“ITC”) pertaining to zero-rated supplies (exported goods) which was filed in Form GST RFD-01. However, the Petitioner’s application was not processed by the Revenue Department (herein after called “the Respondent”) and issued the communication (Form GST RFD-03) (herein after called “impugned Communication”) which stated that, after scrutiny of the refund application, the following deficiencies were noticed:

- Relevant supporting documents not attached
- Supporting documents attached are incomplete

Aggrieved by the Impugned Communication issued by the Respondent, the Petitioner filed a writ petition before the High Court.

Submissions of the parties:

That the petitioner challenged the communication on the following ground:

- First the officer is not authorized or competent to issue the Impugned Communication.
- Second, there is no deficiency in the refund application and the deficiencies stated in the Communication are beyond the scope of Rule 89(2) of the CGST Rules.

The Respondent further contended that the impugned communication is bereft on any specific details. It neither sets out the relevant documents that have not been provided nor indicates the documents that are supposedly incomplete.

Analysis:

On perusal of the provisions as laid down in Rule 90(3) of the CGST Rules, the Impugned Communication implies that petitioner is required to file a fresh application for refund. Further, Petitioner’s application for refund could not be termed as deficient when it complies with the conditions stated in Rule 89(2) of the CGST Rules. Furthermore, the concerned officer has the right to ask for further documents to process the claim and the refund application cannot be termed as deficient even if the documents asked for are not annexed with the application.

The High Court observed that the impugned communication is devoid of any specific details, neither sets out specifically any relevant documents that have not been provided nor indicates the documents that are incomplete.

The High Court observed that the impugned communication is devoid of any specific details, neither sets out specifically any relevant documents that have not been provided nor indicates the documents that are incomplete.

The Court relied upon the similar judgment in the case of **National Internet Exchange of India v. Union of India and Ors. [W.P. (C) 871 of 2022 dated August 9, 2023]** wherein it was held that, if the application is complete with all the required documents, fulfilling the requirements stated in sub-rules (2), (3), and (4) of Rule 89 of the CGST Rules, the application for refund cannot be rejected. However, even if the documents are complete, the proper officer may withhold the processing of refund, on the ground that the amount of tax credited is not refundable to the taxpayer. In such cases, the proper officer is required to further verify the claim, by issuance of notice in Form GST RFD-08 under sub-rule (5) of Rule 90 of the CGST Rules.

In view of above, the Hon’ble High court set aside the Communication and directed the Respondent to issue acknowledgment as per conditions laid out in Rule 90 of the CGST Rules, and process the Petitioner application for refund in accordance with law.

DCO Experts:

It implies from the High Court decision that:

- Refund Application cannot be termed as deficient if it complies with all the conditions stated in Rule 89(2) of the CGST Rules.
- In case of some deficiency, the concerned officer can ask for further documents to process the claim.

Compiled by CA Divya Gupta



Expert's Insight



Validity of served show cause notices and orders under GST

Introduction

Ensuring the validity of served Show Cause Notices and Orders is imperative in the realm of tax compliance. This article delves into the significance of scrutinizing these documents, shedding light on crucial aspects of the CGST Act, 2017:

Why need to check validity of the served Show Cause Notice, Order:

1. Improper service of any notice, order or communication should be questioned at very first stage of adjudication to prove invalidity of Assessment proceedings.
2. Assessment proceedings shall not be considered as invalid if:
 - Assessee has already been acted on the said notice, order or communication, or
 - Service has not been called in question at or in the earlier proceedings commenced, continued or finalized in respect of said notice,

order or communication.

3. Legal Provision: Section 160(2) of CGST Act, 2017.

Main Body:

A. Time limit within which Show Cause Notice is required to be issued: –

For Matters related to Section 73: Matters related to other than fraud or any willful misstatement or suppression of facts.

1. Show Cause Notice under section 73 shall be issued at least three months prior to the time limit specified for issuance of order.
2. That proper office shall require to issue order under section 73 within three years from the due date of furnishing annual return for the said related financial year or within three years from the date of erroneous refund.

3. That while for the Financial Year 2018-19 and 2019-20, time limit for issue an order with respect to showcause notice under section 73 has been fixed as undermentioned vide **Notification No. 56/2023- Central Tax dated 28-12-2023.**

Financial Year	Time Limit to issue Order	Time Limit to issue Show Cause Notice
2018-19	30.04.2024	31.01.2024
2019-20	31.08.2024	31.05.2024

4. Legal Provision:

- Section 73(2)
- Section 73(10)



For Matters related to Section 74: Matters related to fraud or any willful misstatement or suppression of facts

1. Show Cause Notice under section 74 shall be issued at least **six months** prior to the time limit specified for issuance of order.
2. That proper office shall require to issue order under section 74 within five years from the due date of furnishing annual return for the said related financial year or within three years from the date of erroneous refund.
3. Legal Provision:
 - Section 74(2)
 - Section 74(10)

B. Authenticity of issued notices, order or certificates: –

1. As per Rule 26(3), all notices, certificates and order shall be issued electronically through:
Digital signature certificate, or
Through e-signature as specified under the provision of the Information Technology Act, 2000 (21 of 2000), or
Any other mode of signature or verification as notified by the Board.
2. Case Laws Reference:

Railsys Engineers Pvt. Ltd. vs. Addl. Commr. of CGST (Appeals-II) 2022 (65) G.S.T.L. 159 (Del.)

C. Show Cause Notice and Order should be issued along with Summary thereof in Form DRC-01 and DRC-07 respectively:

1. As per Rule 142(1)(a), it is mandatory for the proper officer to serve summary of notice electronically in Form GST DRC-01 along with Notice.
2. As per Rule 142(5), summary of order shall be uploaded electronically in FORM GST DRC-07 specified therein the amount of tax, interest and penalty.
3. Case Law Reference:
M/s Shyam Baba Edible Oil vs Chief Commissioner in W.P. No. 16131 of 2020 dated 19/11/2020.
Shri Tyres vs State Tax Officer (Madras High Court) in W.P. No. 19756 of 2021 dated 21/09/2021.

D. Generation and Mentioning of Document Identification Number (DIN):

1. The board vide **Circular No. 122/41/2019-GST** directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer under the Board to a taxpayer or any other person, on or after the 8th day of November, 2019 without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication.

2. Therefore, it is mandatory for officials to quote DIN No. in each communication.

E. Order should be aligned with Show Cause Notice: –

1. As per Section 75(7) of CGST Act, 2017: The amount of Tax, Interest and Penalty demanded in the order shall not be in excess of the amount specified in the notice, and
2. No demand shall be confirmed on the ground other than ground specified in the notice.

F. Opportunity of being heard:

As per Section 75(4) of CGST Act, 2017, opportunity of hearing shall be granted as mentioned:

Where the request is received in writing from the person chargeable with tax or penalty, or Where any adverse decision is contemplated against such person.

G. Non- Speaking Order:

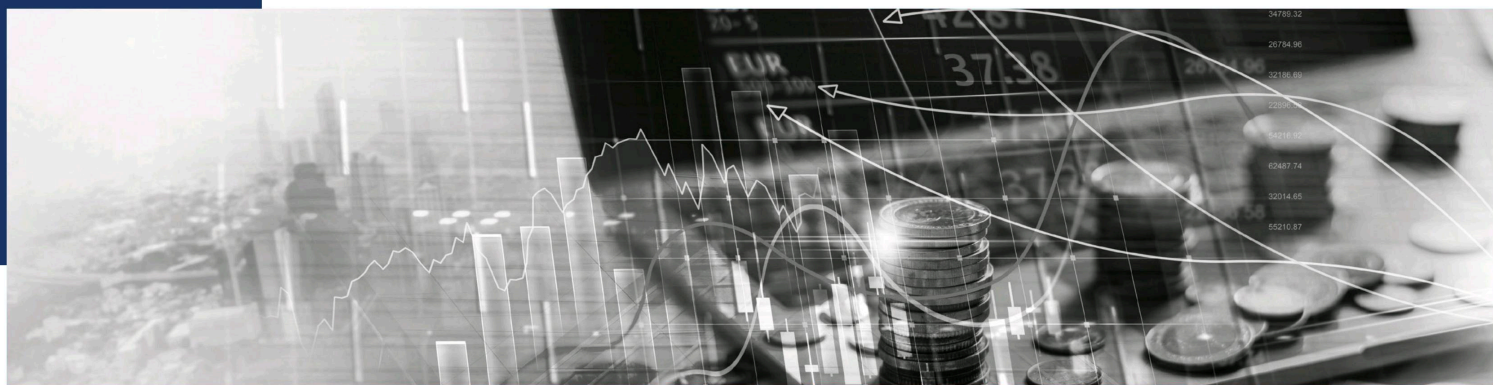
1. As per Section 75(6) of CGST Act, 2017, order issued by the proper officer shall set out the relevant facts and basis of his decision.
2. That order issued should be speaking order which contains the ground to levy Tax, Interest and Penalty.

Conclusion:

Validating Show Cause Notices and Orders is a critical step in the compliance journey under the CGST Act, 2017. From time limits and legal provisions to authenticity and alignment, understanding these nuances ensures a robust approach to tax-related proceedings. This comprehensive analysis serves as a guide for businesses and professionals navigating the intricate landscape of taxation, promoting transparency and adherence to statutory norms.

Written by CA Mohit Kumar Gupta





New functionality related to e-Invoice JSON download now available on Portal

The functionality for the E-Invoice JSON download is now available on the GST Portal from 03/10/2023. This feature helps to download the e-Invoices 'generated and 'received by taxpayer' in JSON format.

To utilize this functionality following steps needs to be followed:-

1. Login to the <https://einvoice.gst.gov.in>.>> Download E-Invoice JSONs>>select "Generated" and "Received" tab.

Various other facility has been introduced like:-

- To Search for e-Invoice - By IRN wise
- View and download signed e-invoice in PDF or JSON Format
- Bulk Downloading of e-invoice (by year wise or month wise)
- e-Invoice List in Excel Format (by year wise or month wise)

It is to be noted that the requested e-Invoices remain in downloading history for 2 days only and you can download e-Invoice JSON files for up to 6 months from the date of IRN generation.

New Facility introduced for the e-commerce operators (ECO) through whom unregistered suppliers of goods can supply goods

To facilitate the unregistered supplier, GSTN provided 2 APIs for ECOs (through whom unregistered persons can supply goods) so that they can obtain the details of unregistered suppliers. The APIs are for validating the demographic details & tracking the supplies of unregistered suppliers. The details of the Two APIs are as follows:-

First is **Unregistered Applicants API** which is used to get the details of Unregistered Applicant and second API is **Unregistered Applicants Validation API** which is used to validate the Mobile Number and Email ID of a Enrolment ID.

Following steps to be followed by **ECOs** to access and integrate the APIs:-

Firstly, ECO should contact any GSP to access the above APIs and for that Authentication Token should be obtained from the developer portal.

Secondly for accessing the public APIs the authentication token should be obtained by using the GSPs credentials.

New functionalities available for the GTA taxpayers

Filing of Online Declaration by existing GTA:

New On GSTN Portal

As per the Notification No. 06/2023-Central Tax (Rate), dated 26.07.2023, the option to pay GST on Forward Charge mechanism or the Reverse Charge mechanism respectively on the services supplied by them during a Financial Year shall be exercised by making a declaration in **Annexure V** or **Annexure VI** from the 1st January of the current F.Y. till 31st March of the current F.Y. To Navigate the form:.

Login>>User Services>>GTA>>Opting Forward Charge Payment by GTA (Annexure V) or Opting to Revert under Reverse Charge Payment by GTA (Annexure VI)

1. **Filing of Online Declaration in Annexure V for the Newly registered GTA Taxpayers:** As per the Notification No. 5/2023-Central Tax (Rate), dated 09.05.2023, the option to pay GST on Forward Charge mechanism on the services supplied the Newly registered taxpayers can now be able to file their declaration within the specified due date for the current Financial Year i.e. 2023-2024 and onwards. The due date (before the expiry of forty-five days from the date of applying for GST registration or one month from the date of obtaining registration whichever is later) is now being configured by the system and the same would be displayed to the newly registered taxpayers on their dashboard. To Navigate the service: Login>>User Services>>GTA>>Opting Forward Charge Payment by GTA(Annexure V).
2. **Uploading manually filed Annexure V Form for the FY 2023-24 on the portal:** The Existing/ Newly registered GTA taxpayers who have already submitted Declaration in Annexure V Form for the FY 2023-24 manually with the jurisdictional authority are requested to upload their duly acknowledged legible copy of the Annexure V Form on the portal, mentioning correct particulars as mentioned in the physical Annexure V submitted, with correct date of acknowledgement from jurisdictional office, where such physical Annexure V was filed for the record purposes. To Navigate the service: Login>>User Services>>GTA>> Upload Manually Filed Annexure V. The option once exercised by GTA will continue for the subsequent F.Y.

2 new methods for GST Payment through Credit Card (CC)/Debit Card (DC) and (UPI) introduced

To facilitate the taxpayer two new methods under e-payment section are provided i.e. Cards and Unified Payments Interface (UPI). Cards facility includes Credit Card (CC) and Debit Card (DC) namely Mastercard, Visa, RuPay, Diners (CC only) issued by any Indian bank. Currently, only one bank added under this category i.e. Kotak Mahindra Bank.

Furnishing Mandatory bank account details by registered taxpayers under Rule 10A of the CGST Rules, 2017

All Registered Taxpayers are required under the provisions of CGST Act, 2017 and the corresponding Rules framed thereunder to furnish details of their bank account/s within 30 days of the grant of registration or before the due date of filing GSTR-1/IFF, whichever is earlier. Otherwise, there will be disruption in business activities and can lead to subsequent suspension of GSTIN.

Enhanced features on GST portal

Currently GSTN operates a total of six IRP portals. New Features of the revamped E-Invoice Master Information Portal i.e. <https://einvoice.gst.gov.in> are as follows:

1. Now users can check e-invoice status **through PAN** in addition to search with GSTIN.
2. Now user can download e-invoice exemptions filed at the start of the month and comprehensive search tab has been introduced for quick access as well as Enhanced search functionality within advisory, FAQ, manual, and other sections for efficient information access has been introduced.
3. Daily IRN Count Statistics is now available on portal and year-wise and month-wise FAQ section for easier reference has been introduced.
4. Dedicated section of Information for the e-invoice QR Code Verifier app are readily available on the app.
5. Some features has been improved such as contrast adjustment, text resizing buttons, and screen reader support for enhanced accessibility.
6. The website policy has been thoroughly updated related to archival policy, content management & moderation policy, and web information manager details.

Compiled by CA Pradeep Marwal



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Thank You