



Dhadda & Co.
CHARTERED ACCOUNTANTS

DCo Digest

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Newsletter



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As the GST framework continues to evolve, bringing with it new opportunities and challenges, staying informed becomes not just an advantage but a necessity. In line with our commitment to empowering our readers with the knowledge and tools to navigate this dynamic landscape, our team is pleased to bring in another edition of our periodical newsletter.

This edition explores pivotal updates and advancements within the GST framework, including transformative changes to the GST Portal aimed at simplifying processes and enhancing user engagement. We also feature significant judicial pronouncements that provide critical guidance on key interpretations, offering pathways to resolve disputes effectively and with greater certainty.

Adding further value, our Experts' Insight section provides a comprehensive analysis of the Amnesty Scheme 2024, exploring its implications, benefits, and practical aspects for taxpayers. Additionally, the newsletter covers updates and key takeaways from the 55th GST Council Meeting, ensuring that our readers stay abreast of the latest policy directions and decisions.

We hope this edition serves as a practical guide and resource to navigate the ever-changing landscape of GST compliance.

Happy Reading!

Preface



Clarification in respect of advertising services provided to foreign clients

Circular No. 230/24/2024-GST dated 10-09-2024

Issue

Usually, a foreign client hires an Indian advertising agency for comprehensive advertising services, including media planning, content creation, and procurement of media space. The agency pays media owners for space and further charges the foreign client for the advertising services, receiving payments in foreign exchange. The key questions raised were:

- Whether the advertising agency is considered an intermediary?
- Whether the foreign client's representative or the target audience in India can be considered the "recipient" of the service?
- Whether the services are performance-based and what would be the place of supply?

Clarifications

Intermediary Status: The advertising agency is not an intermediary as per section 2(13) of the IGST Act because it provides services directly to the foreign client, not on behalf of them. Hence, the agency is engaged in a principal-to-principal supply, not acting as an agent.

Recipient of Services: The foreign client is the recipient, not the Indian representative or the target audience. The agreement is between the foreign client and the advertising agency, and the payment is made directly by the foreign client.

Performance-Based Services: The advertising services do not involve the physical presence of the recipient (foreign client or their representative), so the services are not considered performance-based as per section 13(3) of the IGST Act.

Place of Supply: Since the advertising agency's services do not fall under the special provisions for performance-based services, the place of supply is determined as per section 13(2) of the IGST Act, i.e., the location of the recipient (the foreign client), making it an export of services.

Agency Acting as an Intermediary: If the advertising agency merely acts as a facilitator between the foreign client and the media owner, it would be considered an intermediary. In this case, the place of supply would be determined as per section 13(8)(b) of the IGST Act, based on the location of the advertising agency.

Clarification on availability of input tax credit in respect of demo vehicles

Circular no. 231/25/2024 dated 10.09.2024

This circular addresses the availability of Input Tax Credit (ITC) for demo vehicles maintained by authorized dealers in India, focusing on two key issues:

ITC on Demo Vehicles:

- Clause (a) of Section 17(5) of the CGST Act restricts ITC on motor vehicles with seating capacity of up to 13 persons, except when used for specific purposes like further supply of such vehicles, passenger transportation, or driving training.
- Demo vehicles used for trial runs or demonstrating features to potential buyers do not fall under the exclusions for transportation or driving training, but they can be considered used for the "further supply of such motor vehicles," as they help promote sales. Therefore, ITC on demo vehicles is not blocked.
- Exceptions: If demo vehicles are used for non-sales purposes (e.g., transporting staff), or if the dealer acts as an agent for a manufacturer, ITC would not be available.

TC on Capitalized Demo Vehicles:

- Demo vehicles that are capitalized in the dealer's books as "capital goods" are eligible for ITC under Section 16(1) of the CGST Act, provided they are used in furtherance of the business. However, if depreciation is claimed on the tax component of the vehicle's cost under the Income-tax Act, ITC on that component will not be allowed.
- When a capitalized demo vehicle is sold, the dealer must pay tax as per Section 18(6) and Rule 44(6) of the CGST Rules.

Clarification on place of supply of Data Hosting Services Provided By service providers located in India to cloud computing service providers located outside India

Circular no. 232/26/2024 dated 10-09-2024

This circular provides clarification regarding the place of supply of data hosting services provided by Indian service providers to overseas cloud computing service providers, in the context of the Integrated Goods and Services Tax Act (IGST Act).

Issues and Clarifications:

Intermediary Status:

Data hosting service providers are **not considered intermediaries** under Section 2(13) of the IGST Act. These providers offer services directly to cloud computing service providers on a principal-to-principal basis, and they do not facilitate services between cloud service providers and end users. Hence, the services are not intermediary services, and the place of supply cannot be determined under Section 13(8)(b) of the IGST Act.

Services in Relation to Goods 'Made Available' by the Recipient:

The data hosting services cannot be classified as being provided in relation to goods "made available" by the cloud computing service provider, as the data hosting service provider independently handles all aspects of data centre infrastructure (e.g., premises, hardware, software, power, etc.). Therefore, the place of supply is **not determined under Section 13(3)(a)**.

Services in Relation to Immovable Property:

Data hosting services are not directly related to immovable property or physical premises (e.g., leased or owned land or buildings), but rather, involve the comprehensive operation and management of data centres and IT infrastructure. Therefore, these services are **not covered under Section 13(4)**, which addresses services related to immovable property.

Place of Supply:

Since the data hosting services do not fall under the specific provisions for determining the place of supply, the **default provision under Section 13(2)** applies. The place of supply will be considered the location of the recipient of the services, i.e., the cloud computing service provider's location outside India.

Export of Services:

As the place of supply is determined to be outside India, the supply of data hosting services by an Indian provider to an overseas cloud computing entity qualifies as an **export of services** under Section 2(6) of the IGST Act, subject to fulfilment of other conditions.

Clarification regarding regularization of refund of IGST availed in contravention of Rule 96(10) Of CGST Rules, 2017, in cases where the exporters had imported certain inputs without payment of Integrated Taxes and Compensation Cess

Circular no. 233/27/2024 dated 10-09-2024

This circular addresses the issue of refund of Integrated Goods and Services Tax (IGST) paid on exports of goods when the exporter initially imported inputs without paying IGST and Compensation Cess by availing certain concessional/exemption notifications, and later paid the IGST and compensation cess, along with interest.

Background:

- Sub-rule (10) of rule 96 of the CGST Rules bars the refund of IGST paid on exports if the benefits of certain concessional/exemption notifications (like Notification No. 78/2017-Customs and 79/2017-Customs) were availed on imported inputs.
- There were concerns regarding whether the refund of IGST on exports can be allowed if IGST and compensation cess are paid later after availing the exemptions on imports.

Clarification:

Explanation added: On 23-03-2020, an Explanation was inserted in sub-rule (10) of rule 96 of CGST Rules, retrospectively from 23-10-2017, stating that the benefit of the exemption notifications will not be considered to have been availed if the registered person has paid IGST and Compensation Cess on the inputs, and only availed exemption from Basic Customs Duty (BCD).

Subsequent payment of IGST and Compensation Cess: The circular clarifies that if the exporter initially imported goods without paying IGST and Compensation Cess (by availing the exemptions), but later pays the IGST and Compensation Cess, along with interest, the refund of IGST on exports will not be considered a violation of the provisions of sub-rule (10) of rule 96 of the CGST Rules.

Implementation:

- The Bill of Entry for such inputs must be re-assessed through the jurisdictional Customs authorities to reflect the payment of IGST and Compensation Cess.
- Once this reassessment is done, the exporter can claim the refund of IGST paid on exports without violating the rules.

Clarifications regarding applicability of GST on certain services

Circular no. 234/28/2024 dated 11-10-2024

The circular provides clarifications on various issues concerning the applicability of Goods and Services Tax (GST) based on the recommendations of the 54th GST Council meeting held on 9th September 2024. Below is a summary of the key points:

Affiliation Services Provided by Universities to Colleges

- Universities providing affiliation services to colleges are not exempt under Notification No. 12/2017-CT(R), dated 28-06-2017.
- GST rate of 18% is applicable on affiliation services provided by universities to colleges.

Affiliation Services Provided by Educational Boards to Schools

- Central/State educational boards or similar bodies provide affiliation services to schools, which ensure the school meets the required infrastructure and eligibility criteria.
- These services are taxable. However, affiliation services provided to government schools are exempt from GST w.e.f. 10-10-2024 (Notification No. 08/2024-Central Tax).
- GST on Past Services (1-7-2017 to 17-6-2021) is regularized on 'as is where is' basis for the specified period.

Directorate General of Civil Aviation (DGCA) Approved Flying Training Courses

- Since the DGCA not only approves Flying Training Organisations, but also the training courses and mandates the issuance of course completion certificates, the flying training courses conducted by DGCA-approved FTOs are classified under educational services.
- Therefore, these courses fall under the exemption category provided in Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017 and are exempt from GST

GST on Helicopter Passenger Transportation

- **Seat-share basis:** The GST rate for transportation of passengers by helicopter (on a seat-share basis) is 5% (Notification No. 07/2024-Central Tax).
- **Charter operations:** GST remains at 18% for helicopter charter services.
- **GST for Past Period (1-7-2017 to 9-10-2024):** Regularized on 'as is where is' basis.

Incidental Services Provided by GTA (Goods Transport Agency)

Composite Supply of Transport of Goods:

- It is clarified that ancillary or incidental services like loading/unloading, packing/unpacking, transshipment, temporary warehousing, etc., when provided in the course of transportation of goods by road, will remain part of the composite supply of transportation of goods by the GTA.
- The method of invoicing (whether bundled together or separately) will not generally alter the nature of the composite supply. If these services are provided as part of transportation, they are treated as part of the primary transport service.

Separate Invoicing:

However, if such ancillary services are provided separately from the transportation of goods (e.g., separately invoiced), then they will not be treated as part of the composite supply of transport. In such cases, these services would be treated as independent supplies and subject to GST at the applicable rate (which could be 18%, as seen for cargo handling services).

Import of Services by Foreign Airlines from Related Persons

The 54th GST Council has recommended an exemption for the import of services by an establishment of a foreign airline company from a related person or any of its establishments outside India, when such services are received without consideration. To give effect to this, Notification No. 08/2024-Integrated Tax (Rate), dated 8-10-2024, was issued, effective from 10-10-2024, exempting GST on such services. GST for past period (1-7-2017 to 9-10-2024): regularized on 'as is where is' basis.

Preferential Location Charges (PLC) for Construction Services

Charges for the preferential location of an apartment are integral to the supply of construction services, and GST is applicable at the same rate as the construction service before the completion certificate is issued.

Support Services by Electricity Transmission/Distribution Utilities

- Services like providing metering equipment on rent, shifting meters/service lines, issuing duplicate bills, etc., which are incidental to electricity transmission and distribution, are exempt from GST w.e.f. 10-10-2024 (Notification No. 08/2024-Central Tax).
- GST for Past Period (1-7-2017 to 9-10-2024) is regularized on 'as is where is' basis.

GST on Film Distribution Services

Government has clarified the GST liability for the period from 1st July 2017 to 1st October 2021 on transactions between distributors and exhibitors, where the distributors grant theatrical rights to exhibition centers. Field formations had classified these transactions under SAC 9996, attracting GST at 18%.

- Before 1st October 2021, GST at the rate of 18% was levied on “Motion Picture, videotape, and television programme distribution services” under Heading 9996.
- However, Heading 9973 provided a 12% GST rate on “temporary or permanent transfer or permitting the use or enjoyment of intellectual property rights in respect of goods other than IT technology software,” which also seemed to apply to licensing rights to broadcast or show films. This overlap led to confusion regarding the appropriate classification.
- The issue was discussed at the 45th GST Council meeting, and it was recommended to unify the rate at 18% for both categories (SAC 9996 and SAC 9973) from 1st October 2021 onwards.
- In the 54th GST Council meeting (9th September 2024), it was recommended to regularize the payment of GST on transactions where distributors grant theatrical rights to exhibition centers for the period from 1st July 2017 to 30th September 2021, on an ‘as is where is’ basis.

Clarification regarding GST Rates & Classification of Goods

Circular no. 235/29/2024-GST dated 11-10-2024

Extruded/Expanded Savoury food products

- Based on the recommendations of GST Council, GST rate was reduced on extruded or expanded products, savoury or salted with effect from 10.10.2024.
- It has been now clarified that the reduced GST rate of 12% on extruded or expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion) falling under HS 1905 90 30 shall apply prospectively from the date of effect of the said notification. For the past period, 18% GST shall be payable.

Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways

- Goods falling under HSN 8415 (which includes air conditioning machines) attract a GST rate of 28% as per Sl. No. 119 of Schedule IV of Notification No. 1/2017-CT (Rate) dated 28th June 2017 (as amended).
- Goods under HSN 8607 (including parts of railways or tramway locomotives) attract a GST rate of 18% according to Sl. No. 398G of Schedule III of Notification No. 01/2017-CT (Rate) dated 28th June 2017 (as amended).
- According to Section Note 2 and Note 3 of Section XVII of the Customs Tariff Act, 1975, machines and apparatus classified under headings 8401 to 8479 (including 8415, which covers air conditioning machines) are excluded from the ambit of 'parts' under Chapter 86 (which includes HS 8607 related to railway locomotives and parts thereof).
- Thus, Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways are classified under HS 8415, which corresponds to air conditioning machines and thereby will attract a GST rate of 28% as per the classification under HS 8415.

Car and Motorcycle seats

- Seats for two-wheelers are classified under HS Code 8714, as per the Explanatory Note for HS 8714, which includes "saddles (seats)". These seats attract a GST rate of 28%, per S. No. 174 of Schedule IV of Notification No. 1/2017-Central Tax (Rate).
- Seats for four-wheelers are classified under HS Code 9401, which covers "Seats, whether or not convertible into beds". Initially, these seats attracted a GST rate of 18%, as per S. No. 435A of Schedule III of the same notification.
- To align the GST rate with that of two-wheeler seats, the GST rate for car seats (HS 9401) has been increased to 28%. The revised rate is applicable prospectively from October 10, 2024, as per S. No. 210A of Schedule IV of notification No. 1/2017-Central Tax (Rate), dated 28th June, 2017 (as amended).

Clarification regarding the scope of “as is / as is, where is basis”

Circular No. 236/30/2024-GST dated 11-10-2024

It is clarified that where matters have been regularised on ‘as is where is’ means that the payment made at lower rate or exemption claimed by the taxpayer shall be accepted and no refund shall be made if tax has been paid at the higher rate.

It has been also clarified that, in cases where the matters have been regularized on “as is” or “as is, where is basis”, in case of two competing rates and the GST is paid at lower of the two rates, or at nil rate by some suppliers while other suppliers have paid at higher rate, payment at lower rate shall be treated as tax fully paid for the period that is regularized.

Clarification on Section 10(1)(Ca) Of IGST Act, 2017 Relating To Place Of Supply Of Goods To Unregistered Persons

Circular no. 209/3/2024 dated 26-06-2024

As Section 10(1)(ca) of IGST Act, 2017 states as following: In cases where the supply of goods is made to an unregistered person, the place of supply would be:

The location as per the address of the said person recorded in the invoice, and the location of the supplier where the address of the said person is not recorded in the invoice. Further, as per Explanation to the said clause, recording the name of the State of the said unregistered person on the invoice shall be deemed to be the recording of the address of the said person.

Accordingly, it is clarified that in such cases involving supply of goods to an unregistered person, where the address of delivery of goods recorded on the invoice is different from the billing address of the said unregistered person on the invoice, the place of supply of goods in accordance with the provisions of clause (ca) of sub-section (1) of section 10 of IGST Act, shall be the address of delivery of goods recorded on the invoice.

Also, in such cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods.

Revision in GST Rate of Goods - Notification 05/2024 - Central Tax (Rate)

The tax rate has been revised for the following goods w.e.f. 10-10-2024.

Goods	Old Rate	New Rate
Trastuzumab Deruxtecan	12%	5%
Osimertinib	12%	5%
Durvalumab	12%	5%
Extruded / Expanded Savoury food products	12%	18%
Car and Motorcycle seats	18%	28%

Applicability of RCM on supply of metal scrap - Notification 06/2024 - Central Tax (Rate):

The supply of metal scrap covered under Chapters 72, 73, 74, 75, 76, 77, 78, 79, 80, or 81, by an unregistered person to a registered person is now liable to tax under Reverse Charge Mechanism (RCM).

The notification is applicable from October 10, 2024.

Transportation by air in Helicopter - Notification 07/2024 - Central Tax (Rate)

The tax rate for passenger transportation by air in a helicopter on a seat-share basis, with or without baggage is 5%. Provided input tax charged on goods used in supplying the service has not been taken.

Inclusion in Exemption notification - Notification 08/2024 - Central Tax (Rate)

The following services have now been included in the Exemption notification:

- Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.
- Research and development services against consideration received in the form of grants supplied by –

(a) a Government Entity; or

(b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income-tax Act, 1961.

Provided that the research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 is so notified at the time of supply of the research and development service.”

- Services of affiliation provided by a Central or State Educational Board or Council or any other similar body, by whatever name called, to a school established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity.

- Any services provided by -

(a) The National Skill Development Corporation set up by the Government of India;

(b) The National Council for Vocational Education and Training;

(c) An Awarding Body recognized by the National Council for Vocational Education and Training;

(d) An Assessment Agency recognized by the National Council for Vocational Education and Training;

(e) A Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training,

in relation to-

(i) The National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or

(ii) A vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or

(iii) Any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.

Inclusion in Exemption notification - Notification 08/2024 - Central Tax (Rate)

Services provided by Ministry of Railways (Indian Railways) to individuals by way of –

- o sale of platform tickets;
- o facility of retiring rooms/waiting rooms;
- o cloak room services;
- o battery operated car services.

Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways).

Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) to use the infrastructure built and owned by them during the concession period against consideration and services of maintenance supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration.

Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days.

RCM on Renting of commercial dwelling to registered person - Notification 09/2024 - Central Tax (Rate)

Renting of immovable property other than a residential dwelling is a taxable service has been covered under Reverse Charge Mechanism. If an immovable property (other than residential dwelling) is rented out by an unregistered person to a registered person, the registered person receiving the property on rent must pay the tax under the Reverse Charge Mechanism (RCM). The same is applicable from October 10, 2024.

Waiver of Interest and Penalty - Notification 21/2024 - Central Tax

31.03.2025 has been notified as the last date to make payment of tax and qualify for a waiver of interest and penalties under Section 128A of the CGST Act 2017.

For most registered taxpayers, who have received notices or statements or orders referred to in clause (a), (b), or (c) of Section 128A of the CGST Act – Last date is 31.03.2025.

In certain specific cases, who have received a notice u/s 74 in respect of the period mentioned in Section 128A(1) (For some specific cases) – 6 months from the date of redetermination order.

Procedure for taking benefit of Section 16(5)/16(6) where order has been passed - Notification 22/2024 - Central Tax

A special procedure has been introduced for rectifying certain specified orders issued under Sections 73, 74, 107, or 108 of the CGST Act. This relaxation applies to cases where input tax credit (ITC) was previously disallowed under Section 16(4), however is now eligible under the amended provisions of Section 16(5).

The registered persons may apply for rectification in Proforma made available within 6 months of this notification, and the proper officer will decide on the application within 3 months.

Waiver of Late Fee on GSTR 7 - Notification 23/2024 - Central Tax

The late fee for filing FORM GSTR-7 (TDS return) from June 2021 onwards has been limited to ₹25 per day, with a maximum of ₹1,000.

The notification is applicable from Applicable from November 1, 2024.

Changes with respect to Goods Rate – Notification No. 01/2025- Central Tax (Rate), Notification No. 02/2025- Central Tax (Rate), Notification No. 03/2025- Central Tax (Rate)

- A New Entry No. 98B has been inserted in Schedule I-2.5%, to reduce the GST rate on Fortified Rice Kernels (FRK) classifiable under Heading 1904 from 9%. Therefore, GST rate reduced 5% from 18%.
- Amendment in the definition of 'pre-packaged and labelled' – To cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, which are 'pre-packed' as defined under the Legal Metrology Act, or a label affixed thereto is required to bear the declarations under the provisions of the Act and rules.
- A New Entry 105A has been inserted in Notification No. 02/2017-Central Tax (Rate) to fully exempt Gene Therapy from GST.
- Amendment has been made in NN. 39/2017-Central Tax(Rate) where Concessional 5% GST rate had been notified on food inputs of food preparations under HSN 19 or 21 that are supplied for food preparations intended for free distribution to economically weaker sections under a government program subject to the existing conditions.

The above Notifications shall have an immediate effect i.e. 16.01.2025.

Change in rate on Sale of all old and used vehicles including electric vehicles (EVs) except categories which already taxed at 18% – Notification No. 04/2025 – Central Tax (Rate)

Amendment made in Notification No. 8/2018-Central Tax (Rate), to increase the GST rate from 12% to 18% on sale of all old and used vehicles, including EVs other than those specified at 18%. This is to provide a uniform tax rate of 18% which were previously taxed at 12%, including old EVs bracket when resold by businesses.

This Notification shall have an immediate effect i.e. 16.01.2025.

Change in GST Structure on Hotel Accommodation Services – Notification No. 05/2025 – Central Tax (Rate)

A new definition for “Specified Premises” for a financial year has been introduced

Category (a): Premises that provided hotel accommodation in the preceding financial year, where the value of any unit of accommodation exceeded ₹7,500 per unit per day or equivalent.

Category (b): Premises declared as “specified premises” by a registered person supplying hotel accommodation services. Such declarations must be made between January 1 and March 31 of the preceding financial year.

Category (c): Premises declared as “specified premises” by a person applying for GST registration. This declaration must be filed within 15 days of receiving acknowledgment for the registration application.

The amendment ensures clarity in defining “Specified Premises” and provides a structured process for declarations, reflecting the government’s intent to refine tax applicability and reporting mechanisms.

Annexure VII has been inserted – For OPT-IN DECLARATION FOR REGISTERED PERSON (Declaration by a registered person supplying hotel accommodation service before the jurisdictional GST authority declaring the premises to be a ‘specified premises’). Such declaration shall be filed by a registered person on or after 1st of January of the preceding Financial Year but not later than 31st of March of the preceding Financial Year.

Annexure VIII has been inserted – FOR OPT-IN DECLARATION FOR PERSON APPLYING FOR REGISTRATION (Declaration by a person applying for registration before the jurisdictional GST authority declaring the premises to be a ‘specified premises’).

Annexure IX has been inserted – OPT-OUT DECLARATION (Declaration by a registered supplier of hotel accommodation service before the jurisdictional GST authority declaring the premises as not a ‘specified premises’). Such declarations declaring the premises as not a ‘specified premises’, for a Financial Year, shall be filed on or after 1st of January of the preceding Financial Year but not later than 31st of March of the preceding Financial Year.

This Notification shall have an immediate effect i.e. 01.04.2025.

Exemption on Services – Notification No. 06/2025 – Central Tax (Rate)

- Exemption on contributions made by general insurance companies from the third-party motor vehicle premiums to the Motor Vehicle Accident Fund (MVA Fund) – An New Entry 36B has been inserted under NN. 12/2017-Central Tax (Rate).
- Changes made in Entry No. 25A of the NN. 12/2017-Central Tax (Rate), to change made in words “transmission and distribution” to “transmission or distribution”
- To provide exemption on services provided by “a training partner approved by the National Skill Development Corporation” in relation to the services as provided under Entry 69 of NN. 12/2017-Central Tax (Rate).

Changes w.r.t. Reverse charge mechanism on services – Notification No. 07/2025 – Central Tax (Rate)

Sponsorship services provided by the body corporates:

Earlier: Earlier, any sponsorship services provided to body corporates or partnership firms were liable to tax under the RCM.

Now: Sponsorship services supplied by body corporates are now subject to tax under the Forward Charge Mechanism (FCM). Thus, the supplier, if a body corporate, will now be responsible for collecting and depositing GST.

Sponsorship services provided by non-body corporates will continue under RCM.

*Effective date is yet to be notified.

- **Renting of Any commercial/ immovable property (other than residential dwelling) by unregistered person** – To Exclude taxpayers registered under the Composition Levy Scheme from the purview of the Reverse Charge Mechanism (RCM) for renting of commercial/immovable property (other than residential dwellings) under Entry 5AB.

Compiled by CA Shreyansh Jain
Reviewed by CA Shefali Jain Bang

Judicial Pronouncements

Chief Commissioner of Central Goods and Services & Ors. v. M/s. Safari Retreats Private Limited & Ors

CIVIL APPEAL NOS. 2948 AND 2949 OF 2023 dated 01/10/2024 – SUPREME COURT OF INDIA

Issue:

Address the issue of input tax credit (ITC) on construction-related activities.

Facts:

M/s. Safari Retreats Pvt. Ltd. (herein after called “the Respondent”) is a real estate developer involved in the development of malls and commercial complexes and claimed ITC on GST paid by it on purchases of input materials and services which had been used in construction of mall.

The Respondent let out different units of the mall to different persons on rental basis and claimed benefit of said input tax credit on GST paid by it on purchases for set off, against GST payable on rent received from tenants.

The Revenue Department (herein after called “the Petitioner”) denied benefit of input tax credit by citing Section 17(5) (d) of the CGST Act, which prohibits ITC on goods or services utilized in the building of immovable property.

The Respondent filed a writ petition before the Hon’ble High Court of Orissa where the matter was ruled in favor of the Respondent, M/s Safari Retreats Pvt. Ltd., holding that if the Assessee is required to pay GST on the rental income from the mall, he is entitled to ITC on the GST paid on construction of the mall. It was also held by the Hon’ble High Court that the narrow interpretation given by the Department to Section 17(5)(d) would frustrate the very object of the Act.

However, the Petitioner filed Special Leave Petition (SLP) against the order before the Apex Court.

Submissions of the parties

The Petitioner contended the denial of ITC by arguing that the creation of immovable property breaks the tax credit chain and ITC is a statutory benefit, not a fundamental right, and can be restricted as per legislative intent to prevent abuse.

Moreover, they also justified the classification under Section 17(5)(d) based on intelligible differentia which is the distinction between immovable property construction for sale versus rental, which has a rational nexus with the objectives of the GST Act.

In response to the same, the Respondent argued that Section 17(5)(d) should be read down to allow ITC where immovable property is used for providing further taxable supplies, such as renting or leasing subject to GST.

It is also argued that blocking ITC, leads to a cascading effect, where taxes are paid on both inputs and outputs and same is contrary to the GST law’s aim of providing seamless credit and avoiding cascading effect of double taxation.

Analysis:

The following issues have emerged in this case:

1. Whether the expression ‘plant and machinery’ as per explanation to section 17 also applies to the expression plant or machinery used in section 17(5) (d).
2. If yes what is the definition of plant for the purposes of section 17(5)(d).
3. Constitutional validity of section 17(5)(c) and (d) and Section 16(4)

It is held by Apex Court that the expression “plant or machinery” used in Section 17(5)(d) cannot be equated with the term “plant and machinery” as defined by the explanation to Section 17 of the CGST Act. These terms must be interpreted distinctly in the context of their specific use under the law as the legislature deliberately used different expressions in explanation to section 17 and in clause (d) of Section 17(5) of CGST Act, 2017.

It is also clarified by court that if the construction of a building was essential for carrying out the activity of supplying services, such as renting or giving on lease or other transactions in respect of the building or a part thereof, which are covered by clauses (2) and (5) of Schedule II of the CGST Act, the building could be held to be a plant.

Moreover, a “functionality test” is necessary to determine whether a building qualifies as a “plant” under clause (d) of Section 17(5). This test involves assessing the specific facts of each case in light of the building’s purpose and utility in the registered person’s business.

The apex court held that if the construction of the immovable property is critical to the business’s operation, it may be considered a plant for the purposes of input tax credit under the CGST Act. The apex court also held that it cannot make any final adjudication on the question of whether the construction of immovable property carried out amounts to plant as each case will have to be decided on merit by applying the functionality test.

Hence, the writ petitions were remanded to the High Court of Orissa for deciding whether, the shopping mall is a ‘plant’ in terms of clause (d) of Section 17(5) of CGST Act, 2017.

Further, the Court also upheld the Constitutional validity of section 17(5)(c) and (d) and Section 16(4) of the CGST Act, 2017 by saying that the plain interpretation of these provisions does not lead to any ambiguity, therefore the question of reading down the provisions does not arise.

DCO Experts:

The Safari Retreats judgment provides a new avenue for businesses to claim ITC on buildings used in business operations, provided they meet the functionality test.

Further, the said decision also introduces challenges for businesses in determining how the exceptions under Section 17(5)(d) interact, particularly concerning the phrases ‘plant or machinery’ and ‘on his own account.’

However, the GST Council, in its 55th meeting on December 21, 2024, **overturned** the Apex Court’s ruling by recommending a retrospective amendment to Section 17(5)(d), replacing “plant or machinery” with “plant and machinery” effective from July 1, 2017.

The amendment would nullify the Supreme Court’s decision, jeopardizing ITC claims made by companies for constructing immovable properties that qualified as “plant” under the earlier judgment.

It remains to be seen whether this retrospective amendment, aimed at overruling this Apex Court judgment, will face a legal challenge and how the courts will respond to such a move.

Compiled by CA Dinesh Chandak
Reviewed by CA Divya Gupta

Judicial Pronouncements

Rejimon Padickapparambil Alex vs. Union of India (Writ Petition No 54 of 2024 dated 26th November, 2024) – KERELA HIGH COURT

Facts:

M/s. Rejimon Padickapparambil Alex (herein after called “the Petitioner”), during the period from July 2017 to March 2018, received various Intra-state and Inter-state inward supplies of goods. However, at time of filing Form GSTR-3B, the petitioner inadvertently categorized IGST credit as Central Goods and Services Tax (CGST) and State Goods and Services Tax (SGST). This reporting error caused a mismatch with Form GSTR-2A, raising concerns over the validity of claimed credits.

The GST department flagged the discrepancy and issue a show cause notice demanding repayment of the allegedly misclassified credit, which culminated into order confirming demand against the Petitioner. Being aggrieved by the Impugned Order the Petitioner filed a writ before the Hon’ble Kerela High Court.

Submissions of the parties

The petitioner contended that despite the procedural lapse, no excess credit had been claimed, as the IGST had been duly paid by suppliers and split between CGST and SGST for utilization.

Analysis:

The court stated that the proceedings under Section 73 can be initiated only when it appears to a proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax has been wrongly availed or utilised for any reason.

It is held by court that, in the instant case, there has been no wrong availment of credit, and the only mistake committed by the Petitioner was an inadvertent and technical one, where he had wrongly mentioned the CGST and SGST instead of IGST while filing GSTR 3B. The mistake was also insignificant because it is not in dispute that there was no outward supply attracting IGST that was effected by him.

The Hon’ble court also referred an order dated 14.12.2023 passed by Shri. Hareendran K, IRS, Assistant Commissioner of Central Tax, East Division-6, Bengaluru, which considered an identical issue regarding the availment of input tax credit as CGST and SGST instead of IGST, wherein reference of CBIC vide Circular No.192/04/2023-GST dated 17th July 2023 has been taken which clarified that the input tax credit (ITC) available in the electronic credit ledger should be considered as a pool of funds designated for different types of taxes, such IGST, CGST and SGST. These accounts represent a wallet with compartments for IGST, CGST, and SGST funds. Therefore, while determining interest under rule 88B of the CGST Rules, the entire wallet has to be taken into consideration, not just individual compartments. Similarly, for utilizing the IGST liability, the clarification emphasizes that the eligibility of funds for this payment is based on the total balance in the entire wallet, not just the IGST compartment.

By adopting the same analogy, High court set aside the order passed by the learned Single Judge and allow the Writ Petition filed by Petitioner as the Petitioner shall not be seen as having availed excess credit for the purposes of initiating proceedings under Section 73 of the GST Act.

DCO Experts

This case highlights the challenges faced by businesses in navigating the complexities of GST regulations, particularly concerning input tax credits and refund claims.

This decision also emphasis on need for a swift and efficient resolution of such disputes to ensure fair treatment for businesses operating under the GST framework.

Compiled by CA Sandeep Rawat

Reviewed by CA Divya Gupta



Expert's Insight



GST Amnesty Scheme 2024

Introduction

GST Litigation in India has been a significant concern since the Goods and Services Tax (GST) was implemented on July 1, 2017. While the intention behind GST was to streamline and simplify the tax structure, it has led to a range of legal and compliance challenges, resulting in substantial litigation.

Since GST's implementation, many businesses have faced disputes regarding the incorrect ITC availment, erroneous refunds, GST returns reconciliations, classifications, or procedural errors.

The GST Amnesty Scheme 2024 is a proposal introduced as part of the Finance Bill, 2024, following the recommendations of the 53rd GST Council meeting. This scheme aims to reduce the litigation burden on both the taxpayers and the department. The scheme provides taxpayers with an opportunity to resolve outstanding disputes and clear their dues without facing harsh penalties or interest payments. The scheme is expected to reduce the number of cases pending before various forums, including the GST Appellate Tribunal (GSTAT) and courts.

About the Scheme

Section 128 A has been inserted in the CGST/SGST Act, 2017 by the Finance (No. 2) Act, 2024, w.e.f. 1-11-2024 which is also referred as **The GST Amnesty Scheme 2024**. The Scheme has been introduced to provide relief to taxpayers by waiving interest and penalty liabilities for non-fraudulent cases during the period from July 1, 2017, to March 31, 2020, where full tax has been paid before 31-03-2025. Section 128A reads as following:

Provision under law

128A. (1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,

(a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or

(b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or

(c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed,

pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:

Provided that where a notice has been issued under sub-section (1) of section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of section 112 or an appeal is filed by an officer of central tax under sub-section (1) of section 117 or under sub-section (1) of section 118 or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order:

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

(2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.

(3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).

(4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of section 107 or sub-section (1) of section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be.]

Eligibility Criteria for Waiver of Interest or Penalty for tax period July 2017 to March 2020:

The taxpayer must have been served the following:

1. Notice or Statement u/s 73 of the CGST/SGST Act, 2017
2. An Order under u/s 73(9) i.e. an order against Notice or statement
3. An Order under Section 107(11) i.e. Order from Appellate Authority or under Section 108(1) i.e. Order from Revisional Authority of the CGST Act, 2017

Time limit for making payment of Tax

The government has issued Notification No. 21/2024 under the Central Goods and Services Tax Act, 2017, which establishes payment deadlines for registered persons in relation to tax notices, statements, or orders. Taxpayers who wish to avail the benefit of the scheme shall make tax payments without incurring interest or penalties until March 31, 2025. Additionally, for registered persons notified under section 74, the payment deadline extends to six months following the issuance of a re-determination order by the appropriate officer. Relevant Extract from the said notification has been produced below:

Sl No.	Class of registered person	Date upto which payment for the tax payable as per the notice or statement or the order referred to in clause (a) or clause (b) or clause (c) of section 128A of the said Act, as the case may be, can be made for waiver of interest, or penalty, or both, under the said
(1)	(2)	(3)
1	Registered persons to whom a notice or statement or order, referred to in clause (a) or clause (b) or clause (c) of section 128A of the said Act, has been issued.	31-2-2025
2	Registered persons to whom a notice has been issued under sub-section (1) of section 74, in respect of the period referred to in sub-section (1) of section 128A of the said Act, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority, or the Appellate Tribunal, or a court, in accordance with the provisions of sub-section 75, for determination of the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73 of the said Act.	Date ending on completion of six months from the date of issuance of the order by the proper officer redetermining tax under section 73 of the said Act

Procedure for availing benefit of the Amnesty Scheme

Rule 164 has been inserted in CGST/SGST Rules, 2017 vide Inserted (w.e.f. 01.11.2024) vide Notification No. 20/2024 - CT dated 08.10.2024 to provide with the procedure to avail the benefit of section 128A. Rule 164 reads as following:

164. (1) Any person who is eligible for waiver of interest, or penalty, or both in respect of a notice or a statement mentioned in clause (a) of sub-section (1) of section 128A, may file an application electronically in FORM GST SPL-01 on the common portal, providing the details of the said notice or the statement, as the case may be, along with the details of the payments made in FORM GST DRC-03 towards the tax demanded.

(2) Any person who is eligible for waiver of interest, or penalty, or both, in respect of orders mentioned in clauses (b) and (c) of sub-section (1) of section 128A, may file an application electronically in FORM GST SPL 02 on the common portal, providing the details of the said order, along with the details of the payments made towards the tax demanded:

Provided that the payment towards such tax demanded shall be made only by crediting the amount in the electronic liability register against the debit entry created by the said order:

Provided further that if the payment towards such tax demanded has been made through FORM GST DRC-03, an application in FORM GST DRC-03A, as prescribed in sub-rule (2B) of rule 142, shall be filed by the said person for credit of the said amount in the Electronic Liability Register against the debit entry created for the said demand, before filing the application in FORM GST SPL 02.

(3) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially on account of erroneous refund and partially for other reasons, an application under sub-rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax demanded in the said notice or statement or order, on or before the date notified under the said sub-section.

(4) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially for the period mentioned in the said sub-section and partially for the period other than that mentioned in the said sub-section, an application under sub-rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax demanded in the said notice or statement or order, on or before the date notified under the said sub-section.

(5) The amount payable under sub-rule (1) or sub-rule (2) shall be the amount that remains payable, after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be.

(6) Any person who wishes to file an application under sub-rule (1) or sub-rule (2), may do so within a period of three months from the date notified under sub-section (1) of section 128A:

Provided that where an application in FORM GST SPL-02 is to be filed in cases referred to in the first proviso to sub-section (1) of section 128A, the time limit for filing the said application shall be six months from the date of communication of the order of the proper officer redetermining such tax under section 73.

(7) The application under sub-rule (1) or sub-rule (2) shall be accompanied by documents evidencing withdrawal of appeal or writ petition, if any, filed before any Appellate Authority, or Tribunal or Court, as the case may be, to establish that the applicant is eligible for the waiver of interest or penalty or both, in terms of section 128A:

Provided that where the applicant has filed an application for withdrawal of an appeal or writ petition filed before the Appellate Authority or Appellate Tribunal or a court, as the case may be, but the order for withdrawal has not been issued by the concerned authority till the date of filing of the application under sub-rule (1) or sub-rule (2), the applicant shall upload the copy of such application or document filed for withdrawal of the said appeal or writ petition along with the application under sub-rule (1) or sub-rule (2), and shall upload the copy of the order for withdrawal of the said appeal or writ petition on the common portal, within one month of the issuance of the said order for withdrawal by the concerned authority.

(8) Where the proper officer is of the view that the application made in FORM GST SPL-01 or FORM GST SPL-02 is liable to be rejected as not being eligible for waiver of interest, or penalty, or both, as per section 128A, he shall issue a notice on the common portal to the applicant in FORM GST SPL-03 within three months from the date of receipt of the said application and shall also give the applicant an opportunity of being heard.

(9) On receiving the notice under sub-rule (8), the applicant may file a reply to the said notice on the common portal in FORM GST SPL-04, within a period of one month from the date of receipt of the said notice.

(10) If the proper officer is satisfied that the applicant is eligible for waiver of interest and penalty as per section 128A, he shall issue an order in FORM GST SPL-05 on the common portal accepting the said application and concluding the proceedings under section 128A.

(11) In cases where the order in FORM GST SPL-05 is issued by the proper officer under sub-rule (10):-

(a) in respect of an application filed in FORM GST SPL-01 pertaining to a notice or statement referred to in clause (a) of sub-section (1) of section 128A, the summary of order in FORM GST DRC-07 as per sub-rule (5) of rule 142 shall not be required to be issued by the proper officer, in respect of the said notice or statement;

(b) in respect of an application filed in FORM GST SPL-02 pertaining to an order referred to in clause (b) or clause (c) of sub-section (1) of section 128A, the liability created in the part II of Electronic Liability Register, shall be modified accordingly.

(12) If the proper officer is not satisfied with the reply of the applicant, the proper officer shall issue an order in FORM GST SPL-07 rejecting the said application.

(13) (a) In cases where notice in FORM GST SPL-03 has not been issued, the proper officer shall issue the order under sub-rule (10) within a period of three months from the date of receipt of the application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be.

(b) In cases where notice in FORM GST SPL-03 has been issued, the proper officer shall issue the order in sub-rule (10) or sub-rule (12) within a period of three months from the date of receipt of reply of the applicant in FORM GST SPL-04, or within a period of four months from the date of issuance of notice in FORM GST SPL-03 where no reply is received from the applicant.

Explanation.- For the purposes of this sub-rule, in cases referred to in the proviso to sub-rule (7), the time period from the date of filing of the application under sub-rule (1) or sub-rule (2) till the date of submission of the order for withdrawal of the appeal or the writ, as the case may be, shall not be included while calculating the time period under clause (a) or clause (b) of this sub-rule.

(14) If no order is issued by the proper officer within the time limit specified in sub-rule (13), then the application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, shall be deemed to be approved and the proceedings shall be deemed to be concluded.

(15) (a) In cases where no appeal is filed against the order in FORM GST SPL-07 within the time period specified in sub-section (1) of section 107, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn for filing the application in FORM GST SPL-02 in accordance with sub-section (3) of section 128A, shall be restored.

(b) In cases where an appeal is filed against the order in FORM GST SPL-07 for rejection of application for waiver of interest, or penalty, or both, if—

(i) the appellate authority has held that the proper officer has wrongly rejected the application for waiver of interest, or penalty, or both, in FORM GST SPL-07, the said appellate authority shall pass an order in FORM GST SPL-06 on the common portal accepting the said application and concluding the proceedings under section 128A; or

(ii) the appellate authority has held that the proper officer has rightly rejected the application for waiver of interest, or penalty, or both, in FORM GST SPL-07, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of subsection

(1) of section 128A, and withdrawn for filing the application in FORM GST SPL-02 in accordance with sub-section (3) of section 128A, shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in FORM GST SPL-08, within a period of three months from the date of issuance of the order by the appellate authority in FORM GST APL-04, that he has neither filed nor intends to file any appeal against the said order of the Appellate Authority.

(16) In cases where the taxpayer is required to pay an additional amount of tax liability as per the second proviso to sub-section (1) of section 128A, and such additional payment is not made within the time limit specified in the said proviso, the waiver of interest, or penalty, or both, under the said section as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, if any, shall become void.

(17) In cases where the taxpayer is required to pay any amount of interest, or penalty, or both, in respect of any demand pertaining to erroneous refund or on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, and the details of such amount have been mentioned in FORM GST SPL-05 or FORM GST SPL-06, the applicant shall pay the said amount of interest, or penalty, or both, within a period of three months from the date of issuance of the order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, and where the said amount is not paid within the said time period, the waiver of interest, or penalty, or both, under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void.

Explanation. - For the purposes of this rule, the proper officer for issuance of order under this rule,-

(a) in cases where the application for waiver of interest, or penalty, or both is made with respect to a notice or statement mentioned in clause (a) of sub-section (1) of section 128A, shall be the proper officer for issuance of order as per section 73; and

(b) in cases where the application for waiver of interest, or penalty, or both, is made with respect to an order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, shall be the proper officer referred to in section 79 of the Act.]

The above procedure has been summarised in the following matrix below for better understanding:

Notice/ Statement/ Order	Form to be filed	Due date of Tax Payment	Due date to file application for waiver
Notice issued u/s 73(1) or 73(3)	GST SPL-01	31.03.2025 through DRC 03	30.06.2025
Order passed u/s 73(9)	GST SPL-02	31.03.2025 through Electronic Liability Register	30.06.2025
Order passed u/s 107(11) or 108(1)	GST SPL-02	31.03.2025 through Electronic Liability Register	30.06.2025
Original notice issued u/s 74(1) but reassessed the tax u/s 73(1) in accordance with provision of Sec.75(2)	GST SPL-02	Within 6 months from redetermination order u/s 73	Within 6 months from redetermination order u/s 73

That further Circular No. 238/32/2024-GST dated 15-10-2024 has been issued to provide clarifications on Section 128A of the CGST Act, 2017. The circular provides detailed guidelines for both taxpayers and tax officers regarding the procedures to be followed.

Sl. No.	Issue	Clarification
1	Whether the benefit provided under Section 128A will be applicable to taxpayers who have paid the tax component in full before the date on which the said section has come into effect?	In this regard, it is to be mentioned that all such amount paid towards the said demand upto the date notified under sub-section (1) of section 128A, irrespective of whether the said payment has been done before Section 128A comes into effect, or after that, and irrespective of whether such payment was made before the issuance of the demand notice or demand order, or after that, shall be considered as paid towards the amount payable in sub-section (1) of Section 128A, as long as the said amount has been paid upto the date notified under sub-section (1) of section 128A and was intended to be paid towards the said demand.

Sl. No.	Issue	Clarification
2	Whether amount recovered by the tax officers as tax due from any other person on behalf of the taxpayer, against a particular demand can be considered as tax paid towards the same for the purpose of Section 128A?	Yes. The said amount recovered by the tax officers as tax due from any other person on behalf of the taxpayer against a demand, shall also be considered as the tax paid towards the said demand, for the purpose of section 128A provided the same has been recovered on or before the date notified under sub-section (1) of section 128A.
3	Whether the amount recovered by the tax officers as interest or penalty or both, pertaining to demand under Section 73 pertaining to Financial Years 2017-18, 2018-19 and 2019-20, can be adjusted against the tax amount payable towards the demand made under Section 73 pertaining to the said financial years?	No. It is mentioned that as per the third proviso to sub-section (1) of section 128A, no refund of such amount of interest or penalty or both, is available. Accordingly, any amount paid by the taxpayer or recovered by the tax officers, as interest or penalty cannot be adjusted towards the amount payable as tax.
4	Whether the benefit provided under Section 128A will be applicable in cases, where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved?	Where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved, the same shall be considered for availing the benefit of section 128A. However, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable under sub-section (12) of section 75.
5	Whether the benefit under Section 128A is available, if the taxpayer intends to avail partial waiver of interest or penalty or both, on certain issues, by making part payment of the amount demanded in the notice/ statement/ order, as the case may be, and opts to litigate for the remaining issues?	No. Section 128A (1) clearly provides that the waiver of interest or penalty or both is only applicable when the full amount of tax demanded in the notice/ statement/ order is paid.

S I . No.	Issue	Clarification
6	<p>Where the notice/order involves multiple periods, ranging from the period for which waiver provided in Section 128A is applicable, and includes some other tax periods for which such waiver is not applicable, whether the benefit of waiver of interest or penalty or both under Section 128A can be availed for the period covered under section 128A?</p> <p>If so, what is the tax amount payable for claiming waiver under Section 128A?</p>	<p>The taxpayer is eligible to apply for waiver of interest or penalty or both, in such cases where the demand notice/ order spans tax periods covered under Section 128A and those not covered under the said section.</p> <p>However, as per sub-rule (4) of Rule 164, the taxpayer shall be required to pay the full amount of tax demanded in the notice/ statement/order, as the case may be, to avail the benefit of waiver of interest or penalty or both under Section 128A.</p> <p>Further, though the amount of tax demanded shall be required to be paid as per the notice/statement/order, as the case may be, for whole of the period covered under the said notice/statement/order, but the waiver of interest or penalty or both under section 128A shall only be applicable for the period specified in section 128A, and not for the period not covered under the said section.</p> <p>On payment of the full amount demanded in the notice/statement/order, if the proper officer finds that the applicant is eligible for waiver of interest or penalty or both for tax periods covered under Section 128A, he will reduce the liability to that extent in his order in FORM GST SPL-05, and the remaining liability of interest or penalty or both for tax periods not covered under Section 128A, remains payable by the taxpayer.</p> <p>The said amount shall be required to be paid by the applicant within three months from the date of issuance of order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be. If the said amount is not paid within the time limit as mentioned above, the order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void, as per sub-rule (17) of rule 164.</p>

S I . No.	Issue	Clarification
7	<p>Where the notice/ statement/order issued under Section 73 involves multiple issues and one of them is regarding demand of erroneous refund, whether an application can be filed for waiver of interest or penalty or both under Section 128A?</p> <p>If so, what is the tax amount payable for claiming waiver under Section 128A?</p>	<p>Yes.</p> <p>However, as per sub-rule (3) of Rule 164, the taxpayer shall be required to pay the full amount of tax demanded in the notice/statement/order, as the case may be, including on account of demand of erroneous refund, to avail the benefit of waiver of interest or penalty or both under Section 128A.</p> <p>Further, in such cases, the waiver of interest or penalty or both under section 128A shall only be available in respect of tax demand other than that pertaining to demand of erroneous refund.</p> <p>On payment of the full amount demanded in the notice/statement/order, if the proper officer finds that the applicant is eligible for waiver of interest or penalty or both for tax periods covered under Section 128A in respect of tax demand other than that pertaining to demand of erroneous refund, he will reduce the liability to that extent in his order in FORM GST SPL-05, and the remaining liability of interest or penalty or both, that corresponds to demand of erroneous refund, remains payable by the applicant.</p> <p>The said amount shall be required to be paid by the applicant within three months from the date of issuance of order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be. If the said amount is not paid within the time limit as mentioned above, the order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void, as per sub-rule (17) of rule 164.</p>
8	<p>In cases where department has filed an appeal against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A and the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, has issued an order enhancing the tax liability, and in the meanwhile the proper officer has issued an order in FORM GST SPL-05 under section 128A, and the taxpayer has not paid the said additional amount of tax liability within the specified time limit, what will be the status of the conclusion of proceedings under Section 128A?</p>	<p>Yes, as per the second proviso to section 128A, the conclusion of proceedings in such cases is subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order.</p> <p>Yes, as per the second proviso to section 128A, the conclusion of proceedings in such cases is subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order.</p>

Sl. No.	Issue	Clarification
8		In case such additional payment is not done within a period of three months from the date of the said order, then as per sub-rule (16) of Rule 164, the waiver of interest or penalty or both under section 128A as per the order issued in FORM GST SPL-05 shall become void.
9	Sub-section (3) of section 128A refers to only appeal or writ petition. In this regard, whether matters where SLP filed by the applicant is pending before the Supreme Court, what is the procedure to be followed by the taxpayer to avail the waiver of interest or penalty or both?	Yes, in such cases also the applicant will be required to withdraw the said special leave petition and file an application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, along with proof of withdrawal of SLP or the copy of the application or any other document filed for withdrawal of SLP, where the order for withdrawal of SLP has not been issued at the time of filing application in FORM GST SPL-01 or FORM GST SPL-02. In such cases, the procedure mentioned in para 3.1.6 may be followed.
10	Whether the benefit provided under Section 128A will be available for matters involving IGST and Compensation Cess?	Yes. On joint reading of section 20 of the Integrated Goods and Services Tax Act, 2017 and section 11 of GST (Compensation to States) Act, 2017 along with section 128A of CGST Act, it becomes clear that the benefit provided under Section 128A of CGST Act will be available for matters involving IGST and compensation cess as well. In this regard, it is mentioned that in such cases, full payment of tax means payment of CGST, SGST, IGST and compensation cess demanded in the notice/ statement/ order, as the case may be.
11	Whether Section 128A covers cases involving demand of irregularly availed transition credit?	The transitional credit is considered to be availed on the date on which the said credit amount is credited in the Electronic Credit Ledger. On reading Rule 121 read with sub-rule (3) of rule 117, it is clear that any demand in respect of transitional credit wrongly availed, whether wholly or partly can be made under section 73 or, as the case may be, section 74. Therefore, it is mentioned that if the amount of transitional credit has been availed in the period covered under Section 128A and notice for demand of wrongly availed credit is issued under section 73, the same is covered under Section 128A.

S I . No.	Issue	Clarification
12	Whether Section 128A will cover waiver of penalties under other provisions, late fee, redemption fine etc?	It is clarified that any penalty, including penalties under section 73, section 122, section 125 etc, demanded under the demand notice/ statement/ order issued under section 73, is covered under the waiver provided under Section 128A. However, late fee, redemption fine etc are not covered under the waiver provided under Section 128A.
13	Whether payment to avail waiver under Section 128A can be made by utilizing ITC?	Yes. The payment of tax required to be made for eligibility for waiver under section 128A is the amount of tax demanded in the notice/ statement/ order. Therefore, it can be paid either by debiting from electronic cash ledger or by utilising the Input Tax Credit (ITC), by debiting the electronic credit ledger, or partly from both. However, where the demand is in respect of any amount of tax to be paid by the recipient under Reverse Charge Mechanism or by the Electronic Commerce Operator under section 9(5), then the said amount shall be required to be paid by debiting the electronic cash ledger only and not through the electronic credit ledger. Further, where the amount must be paid for demand of erroneous refund, the demand in respect of erroneous refund paid in cash is required to be paid only by debiting the electronic cash ledger only and not through the electronic credit ledger.
14	Whether the benefit of waiver under Section 128A be availed qua import IGST payable under the Customs Act, 1962?	No. In such cases, demand is not issued under section 73 of the CGST Act, but is issued under the provisions of Customs Act, 1962 and therefore, such cases are not covered under waiver of interest or penalty or both under section 128A.
15	With retrospective insertion of sub-sections (5) and (6) to Section 16 of the CGST Act, the tax demanded in notice/ statement/ order reduces. Whether the entire tax amount demanded in the notice/ statement/ order has to be paid in such cases, to avail the benefit under section 128A?	Sub-rule (5) of rule 164 mentions that the amount payable in order to avail the benefit under section 128A, shall be calculated after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be.

S I . No.	Issue	Clarification
15		<p>Therefore, the applicant is required to pay only the amount that is payable, calculated after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, before submitting the application. While calculating the amount deductible on account of not being payable in accordance with sub-section (5) or sub-section (6) of Section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be, taxpayer is required to ensure that such amount is deducted only where ITC has been denied solely on account of contravention of Section 16(4) of the CGST Act and not on any other grounds.</p> <p>He is also advised to provide a breakup of the amount not payable by him anymore, as per sub-sections (5) and (6) of section 16, in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, to enable the officer to verify the payment easily.</p> <p>It is also re-iterated that where the taxpayer is deducting the amount of ITC which was denied on account of contravention of sub-section (4) of section 16 of the CGST Act, but which is now available, as per retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, he is not required to file application for rectification in respect of the same as per special procedure notified under Section 148 vide notification No. 22/2024-Central Tax, dated 8th October 2024</p>
16	<p>In case of application in FORM GST SPL-02, where the applicant has paid full or partial amount of tax through FORM GST DRC-03, whether the said applicant is mandatorily required to file application in FORM GST DRC-03A for such tax amount which he desires to get adjusted against tax demand as per FORM GST DRC-07/ FORM GST DRC-08/ FORM GST APL-04?</p>	<p>Yes.</p> <p>In cases where order in FORM GST DRC-07, FORM GST DRC-08 or FORM GST APL-04, as the case may be, has been issued and such taxpayer has paid required amount through FORM GST DRC-03, such applicant is required to adjust the said amount towards the demand created in the Electronic Liability Register, as per the second proviso to sub-rule (2) of rule 164, before filing the application in FORM GST SPL-02.</p>

Other Conditions

1. Where tax, interest and penalty u/s 73 of the Act has already been paid by a person, no provision for refund of interest and penalty is available to the said person by this scheme.
2. Where an appeal or writ petition filed by a person is pending before Appellate Authority or GST Appellate Tribunal or High Court, it shall be required to be withdrawn by the said person on or before the date notified to avail benefit of this scheme.
3. Where a show cause notice has been issued under 73 of the Act or a demand has been confirmed by the adjudicating authority for recovery of erroneous refund in that situation also this scheme shall be made available.
4. Where a taxpayer has paid tax and proceedings are deemed to be concluded by availing the benefit of the scheme, then the taxpayer cannot file appeal before the Appellate Authority under section 107(1) of the Act or before the Appellate Tribunal under section 112(1) of the Act, in the subsequent period.
5. Where litigation is ongoing due to mismatch of ITC between GSTR-2A vs. GSTR-3B, though such cases are covered under Board circular No.183 and Board Circular No.193, however if the registered person fails to comply with the Board circulars, the registered person may avail this scheme provided show cause notices are issued or orders are passed under Section 73 of the Act.

Conclusion

The proposal to introduce an amnesty scheme under the Finance Bill, 2024, aims to resolve past disputes and reduce litigation in the GST regime. The scheme is intended to provide a one-time opportunity for taxpayers to settle their outstanding tax liabilities, penalties, or disputes with the GST authorities.

Compiled by CA Janvi Jain

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Expert's Insight



55th GST Council Meeting

Introduction

The GST Council, in its recent meeting, has made several key recommendations aimed at simplifying GST compliance, providing relief to businesses, and addressing long-standing issues in the implementation of the Goods and Services Tax (GST) system. The recommendations cover a wide range of issues, including changes in GST rates for specific goods and services, clarification of tax treatment for certain transactions, measures to facilitate trade, and steps to streamline compliance procedures. These changes are designed to promote ease of doing business, eliminate ambiguities, and ensure a more efficient and transparent tax regime.

In addition to recommending rate reductions and exemptions, the Council has also proposed changes to simplify the legal and procedural aspects of GST, such as the introduction of a Track and Trace mechanism for evasion-prone commodities, amendments to the Input Tax Credit (ITC) provisions, and adjustments to the appeal process. The recommendations also address issues related to online services, voucher transactions, and GST treatment for certain goods like old vehicles and specific types of construction materials.

These decisions will have a significant impact on various sectors, including healthcare, trade, logistics, real estate, and the hospitality industry, by reducing the GST burden on essential services and facilitating smoother transactions. The changes will be implemented through relevant notifications, circulars, and law amendments, ensuring that the recommendations are put into effect in a structured and legally binding manner.

GST Rate Changes:

- **Fortified Rice Kernel (FRK):** GST rate reduced to 5%.
- **Gene Therapy:** Fully exempted from GST, providing relief for medical treatments.
- **IGST Exemptions:**
 - Exemption on the import of systems, sub-systems, and parts for the manufacture of specific defense systems (LRSAM) under Notification 19/2019-Customs.
 - Exemption on the import of equipment and consumable samples by the International Atomic Energy Agency (IAEA) Inspection Team under specified conditions.
- **Food Inputs for Free Distribution:** The concessional 5% GST rate on food items used for free distribution to economically weaker sections remains, but only if supplied under government programs.

Exemptions and Clarifications in GST:

- **Third-party Motor Vehicle Premiums:** GST is exempted on contributions from general insurance companies to the Motor Vehicle Accident Fund, which compensates victims of road accidents.
- **Vouchers:**
 - Transactions involving vouchers are neither treated as a supply of goods nor services, thus exempt from GST.
 - If vouchers are distributed on a principal-to-agent basis, the commission/fee charged by agents for distributing them is subject to GST.
 - No GST on unredeemed vouchers (breakage).
 - Additional services related to vouchers (e.g., advertising, marketing) will attract GST on the services provided.
- **Penal Charges:** No GST on penal charges levied by banks and NBFCs for non-compliance with loan terms.

Changes in GST on Goods:

- **Sale of Old and Used Vehicles:** The GST rate on the sale of old and used vehicles, including electric vehicles, has been increased from 12% to 18%. However, GST is only applicable on the margin (difference between purchase and selling price), not on the full value. This does not apply if the transaction is between unregistered persons.
- **Autoclaved Aerated Concrete (AAC) Blocks:** These blocks containing over 50% fly ash will fall under HS Code 6815, attracting 12% GST.
- **Pepper and Raisins:** When supplied by an agriculturist, fresh or dried pepper, and raisins are exempt from GST.
- **Ready-to-Eat Popcorn:**
 - Mixed with salt/spices: 5% GST if unbranded and not pre-packaged.
 - Mixed with sugar (e.g., caramel popcorn): 18% GST as it becomes sugar confectionery.

- **Pre-Packaged and Labelled Goods:** The definition of 'pre-packaged' has been amended to include goods intended for retail sale containing no more than 25 kg or 25 liters, as defined under the Legal Metrology

GST on Services:

- **Sponsorship Services:** Supply of sponsorship services by corporates will now fall under the forward charge mechanism.
- **Hotel and Restaurant Services:**
 - The GST rate on hotel accommodation will depend on the "value of supply" of units in the previous year. If the value exceeds ₹7,500 per unit, 18% GST with Input Tax Credit (ITC) applies; otherwise, 5% without ITC.
 - Hotels can opt for 18% GST with ITC on restaurant services if they choose and declare it before the financial year starts.
- **Composition Scheme:** Taxpayers registered under the composition scheme will not be subject to reverse charge on renting commercial property to registered persons, as per Notification 09/2024-CTR.

Facilitating Trade:

- **Special Economic Zones (SEZ):** Goods warehoused in SEZ or Free Trade Warehousing Zones (FTWZ) for export or domestic supply will not be treated as a supply under GST, bringing these transactions in line with the Customs bonded warehouse provisions.
- **Vouchers:** The treatment of vouchers has been further clarified with the omission of certain provisions in the CGST Act and Rules, resolving ambiguities.

Compliance and Procedural Measures:

- **Track and Trace Mechanism:** The GST Council has recommended the introduction of a system for monitoring specified evasion-prone commodities throughout the supply chain, using unique identification marks. This will be enforced by a new provision inserted in the CGST Act.
- **Online Services:** Suppliers of online services (like online money gaming, OIDAR services) to unregistered recipients will need to record the State name of the recipient on the tax invoice for GST purposes, aligning with the place of supply rules.
- **Clarity on ITC Reversal:** No need for proportional reversal of Input Tax Credit (ITC) by Electronic Commerce Operators (ECOs) for services where tax is paid under section 9(5) of the CGST Act.

Changes in the Appeal Process:

- **Pre-Deposit for Appeals:** The pre-deposit requirement for filing an appeal is reduced from 25% to 10% if the appeal involves only penalties and no tax demand.
- **GSTAT (GST Appellate Tribunal):** Provisions regarding the internal functioning of the GST Appellate Tribunal (GSTAT) are being finalized and will be notified soon.

Other Legal and Procedural Amendments:

- **Section 17(5)(d) Amendment:** The phrase "plant or machinery" will be replaced with "plant and machinery" to align with the intended interpretation, effective retroactively from July 1, 2017.

- **Amendments to ISD Mechanism:** The GST Council recommends amendments to explicitly include interstate Reverse Charge Mechanism (RCM) transactions in the Input Service Distributor (ISD) mechanism, effective from April 1, 2025.
- **Temporary Identification Number (TIN):** A new rule will allow tax officers to issue a Temporary Identification Number (TIN) to persons not liable to be registered under GST but who are required to make payments under specific rules.
- **Pre-Filing Modifications:** Taxpayers opting for the composition levy will be able to modify their “category of registered person” through the relevant forms.

Further Actions:

- **IGST Settlements:** The committee of officers will finalize measures to address IGST settlement issues by March 2025.
- **Disaster Relief Policy:** A Group of Ministers will be constituted to examine the legal and structural issues related to GST in the context of natural disasters or calamities, particularly in Andhra Pradesh.
- **FSI and GST:** The issue of whether charges collected by municipalities for granting FSI (Floor Space Index) are chargeable to GST on a reverse charge basis has been deferred for further examination.

Transition and Implementation:

- Several changes, including those related to the **hotel GST rates, amendments to the ISD mechanism, and changes in the treatment of goods and services**, will take effect from **April 1, 2025**, to allow for smoother transition and implementation.

These measures aim to simplify tax compliance, provide relief to businesses, and clarify several grey areas in the application of GST. The changes will be implemented through the issuance of relevant circulars, notifications, and amendments to the law.

Compiled by CA Shreyansh Jain



Introduction of Form GSTR-1A

Form GSTR-1A has been introduced vide Notification No. 12/2024- Central Tax Dated 10.07.2024, as an optional facility which allows the taxpayers to add or amend the details in FORM GSTR-1 before filing FORM GSTR-3B for the same tax period.

Key Features:

- a. Optional and can be filed once per tax period.
- b. Changes reflect automatically in FORM GSTR-3B.
- c. ITC adjustments appear in FORM GSTR-2B for recipients in the next period.

Availability:

- a. **Monthly Filers:** Available post-FORM GSTR-1 filing until FORM GSTR-3B is filed.
- b. **QRMP Filers:** Available quarterly after filing FORM GSTR-1 or its due date.
- c. Amendments for IFF (M1 & M2) must be included in the Quarterly FORM GSTR-1A.

Changes in Form GSTR-8 & TCS Rates-

Effective from 10/07/2024, via Notification No. 15/2024 dated 10.07.2024 the rate of TCS (Tax Collected at Source) to be deducted by E-Commerce Operators has been reduced from the pre-existing rate of 1% (0.5% CGST + 0.5% SGST / UTGST, or 1% IGST) to 0.5% (0.25% CGST + 0.25% SGST/UTGST, or 0.5% IGST).

Mandatory Furnishing of Bank Account Details to file GSTR-1/IFF from September 2024 onwards-

From September 2024 onwards, the taxpayers will not be able to file GSTR-1/IFF for the tax period August 2024 onwards without providing bank account details in their GST registration.

All the taxpayers who have not yet furnished the details of a Bank Account are hereby requested to add their bank account information in their registration details by visiting **Services > Registration > Amendment of Registration Non - Core Fields tabs** on GST Portal.

New On GSTN Portal

Introduction of RCM Liability / ITC Statement-

To improve accuracy and transparency in reporting Reverse Charge Mechanism (RCM) transactions, a new **RCM Liability/ITC Statement** has been introduced on the GST Portal.

This new facility captures the details of RCM Liabilities as reported in Table 3.1 (d) of GSTR-3B and its corresponding ITC Claimed in Table 4A(2) and 4A(3) of GSTR-3B for a Return period.

This statement will be applicable from tax period **August 2024** onwards for monthly filers and from the quarter, **July-September-2024** period for quarterly filers.

The RCM Liability/ITC Statement can be accessed using the navigation:

Services >> Ledger >> RCM Liability/ITC Statement.

Reduction in threshold limit on Reporting of Supplies to unregistered dealers in GSTR-1 / GSTR-5-

Going forward from October 2024 onwards the threshold limit for reporting of invoice wise details of inter-state taxable supplies made to unregistered dealers which is required to be reported in Table 5 of form GSTR-1 and Table 6 of form GSTR-5 has been reduced from 2.5 Lakh to 1 Lakh.

Introduction of Invoice Management System (IMS)- The Next Leap Forward.

Starting from 14th of October, 2024, a new feature going by the name of Invoice Management (IMS) was introduced on the GST Portal, as the next logical step to streamline the reconciliation process, and ensure greater accuracy and efficiency in GST compliance.

This new feature allows the recipient taxpayers to interact with invoices by empowering them to accept, reject, or keep invoices pending in the system to avail later as and when required.

It must be noted that currently it is not mandatory to accept or reject invoices in IMS dashboard for GSTR2B generation. If a taxpayer chooses not to take any action on the received invoices then its GSTR-2B would be generated on 14th of the month as being generated today.

A detailed Step wise procedure to access this new facility has been provided below:

Visit www.gst.gov.in.

Login using valid credentials.

Navigate to **Services > Returns > Invoice Management System (IMS)**.

Now the IMS dashboard will show two main selections:

Inward Supplies: Manage supplies reported by suppliers.

Outward Supplies: Monitor supplies reported to recipients (feature coming soon).

Managing Inward Supplies:

a. View Inward Supplies:

- Click on the **View** button under Inward Supplies.
- A summary of inward supplies reported in GSTR-1/IFF/GSTR-1A will be displayed.

b. Action on Invoices:

Invoices can be marked as:

- **No Action:** Default status for all invoices filed by suppliers.
- **Accepted:** Invoices you agree with.
- **Rejected:** Invoices with discrepancies.
- **Pending:** For invoices requiring further review (as per legal limits).

c. Bulk Actions:

- Perform bulk actions by selecting multiple records or entire pages.
- Options include accepting, rejecting, or marking invoices as pending.
- Save actions using the **SAVE** button.

Managing Outward Supplies:

a. View Outward Supplies:

- Click on the **View** button under Outward Supplies (to be available shortly).
- View B2B supplies reported in GSTR-1/IFF/GSTR-1A.

b. Filter and Search:

- Use filters or keywords to locate specific invoices.
- Click on hyperlinks to drill down into detailed records.

c. Download Data:

- Export outward supply details in Excel for easy offline tracking and verification.
- Further in respect of the invoices where no action would be taken by the recipient would be treated as accepted by the system and a draft GSTR-2B shall be generated including only accepted or 'no action taken' invoices. However, the recipient taxpayers are allowed to take action or change the action already taken on accepted invoices till the filing of Form GSTR-3B of the month.

Barring of GST Return on expiry of three years

Starting from as early as 2025 onwards the taxpayers will be barred to file their respective returns covering GSTR-1, GSTR 3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR 7, GSTR 8 and GSTR 9, will not be allowed to file them after the expiry of a period of three years from the due date of furnishing the said return.

These changes are said to be enacted at any time in the near future, therefore the taxpayers are advised to reconcile their records and file their GST Returns as soon as possible if not filed till now.

Archival of GST Returns data on GST portal

As part of the portal data policy of the GST portal, the return data for a particular period will not be available to view beyond 7 years for the taxpayers.

Accordingly, on 01st August 2024 return filed for July 2017 has been archived and on 01st September 2024, data for August 2017 has been archived. Further, this data archival is going to be a monthly activity hence on 01st October, 2024 data of September 2017 shall be taken down from the GST portal and so on so forth.

Therefore, it is advisable for taxpayers to download their relevant data from the GST portal for any future reference, if required.

Introduction of Form DRC-03A-

In a numerous number of scenarios it was observed that the taxpayers have paid the requisite amount against demands raised in Form **DRC 07/DRC 08/MOV 09/MOV 11/APL 04** through **Form DRC-03**, leading to a situation where demand has been paid by the taxpayer, but the same still seems to be standing in the electronic liability register.

In order to overcome the same a new Form Namely GST DRC-03A has been introduced on the GST portal.

This new facility will allow the taxpayers to adjust the paid amount through DRC-03 against the corresponding demand order. Therefore, it is advised to the taxpayers to use the DRC-03A form to link the payment made vide DRC-03 with the demand order.

It must be noted that only DRC-03 forms where the cause of payment is either 'Voluntary' or 'Others' can be used in the Form GST DRC-03A.

Implementation of mandatory mentioning of HSN codes in GSTR-1 & GSTR 1A

Going forward from the return period of January 2025 onwards, the option to manually entry HSN codes in Table 12 of GSTR-1 has been replaced with a drop down inclusive of various HSN codes furnishing the taxpayers with the option to select their respective HSN codes as per the nature of their outward supplies

Further, Table 12 of GSTR-1/1A has now been bifurcated into two tabs, namely, "B2B Supplies" & "B2C Supplies". Taxpayers are advised to enter the respective HSN Summary details of "B2B Supplies" and "B2C Supplies" separately under the respective tabs.

Advisory for GST Registration Applicants in Rajasthan: Biometric-Based Aadhaar Authentication

Rolling out from 7th January 2025, Any applicant for GST Registration may be selected for biometric-based Aadhaar authentication, including photograph capture and original document verification.

Procedure:

After the submission of an application for GST Registration in form GST REG-01, the taxpayer will receive either of the following links in the e-mail,

- a. A Link for OTP-based Aadhaar Authentication OR
- b. A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification (the intimation e-mail)

If an applicant receives the link for OTP-based Aadhaar Authentication, she/he can proceed with the application as per the existing process.

However, if the applicant receives the link as mentioned in point 3(b), she/he will be required to book the appointment to visit the designated GSK, using the link provided in the e-mail.

At the time of the visit of GSK, the applicant is required to carry the following details/ documents

- a. A copy (hard/soft) of the appointment confirmation e-mail
- b. The details of jurisdiction as mentioned in the intimation e-mail
- c. Aadhaar Card and PAN Card (Original Copies)
- d. The original documents that were uploaded with the application, as communicated by the intimation e-mail.

The applicant is required to book appointments within the period specified in the intimation email. GST applications (ARN) will be generated after the completion of the verification process.

Updates in E-Way Bill and E-Invoice Systems

Starting from 1st of January 2025, the pre-existing E-Invoice and E-way bill systems will be undergoing a series of updates aimed at improving the security and compliance features of the current functionalities.

The key updates have been summarized below:

a. Multi-Factor Authentication (MFA):

Going forward from the 1st January 2025 onwards, the threshold limit for enabling MFA will be reduced from Rs. 100 crores to Rs. 20 crores, from 1st February 2025, the same will be reduced to Rs. 5 crores, and from 1st April 2024 all the taxpayers regardless of their turnover will be liable to enable MFA.

b. Restricting the period of EWB generation from the date of base document:

The generation of E-Way Bills will be restricted to documents dated within **180 days** from the date of generation.

c. Restricting the extension of EWB for specific time/period from the EWB generation date:

Furthermore, the time limit for extension of E-Way Bills will be limited to **360 days** from their original date of generation.

Sequential Filing of GSTR-7 Returns

Starting from the return period of October 2024, the liability to file GSTR-7 by TDS Deductors filing has been made sequential, i.e. the GSTR-7 Return is required to be filed in a chronological order and for the periods where no deductions have been made, deductors are required to file NIL return for the same.

Time Limit for Reporting e-Invoice on the IRP Portal

Starting from 1st November 2023 onwards, the GSTIN has imposed a time limit of 30 days to report old invoices on the IRP portals for taxpayers with AATO greater than 100 crores.

It must be noted that starting from 1st April 2025 the above time limit of 30 days will also be made applicable on such taxpayers whose aggregate turnover is 10 crores or more.

Launch of GST e-services app

The older e-Invoice QR code verifier App has been replaced with the launch of GSTN e-services app. This new app offers the following features:

- a. **Verify e-Invoices:** Scan the QR code to verify the B2B e-Invoices QR code and check the live status of the Invoice Reference Number (IRN).
- b. **GSTIN Search:** Search for GSTIN details using the GSTIN or PAN.
- c. **Return Filing History:** View the return filing history for a GSTIN.
- c. **Multiple Input Methods:** Input search details using text, voice, or scan functions.
- e. **Result Sharing:** Share search results via the app.

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