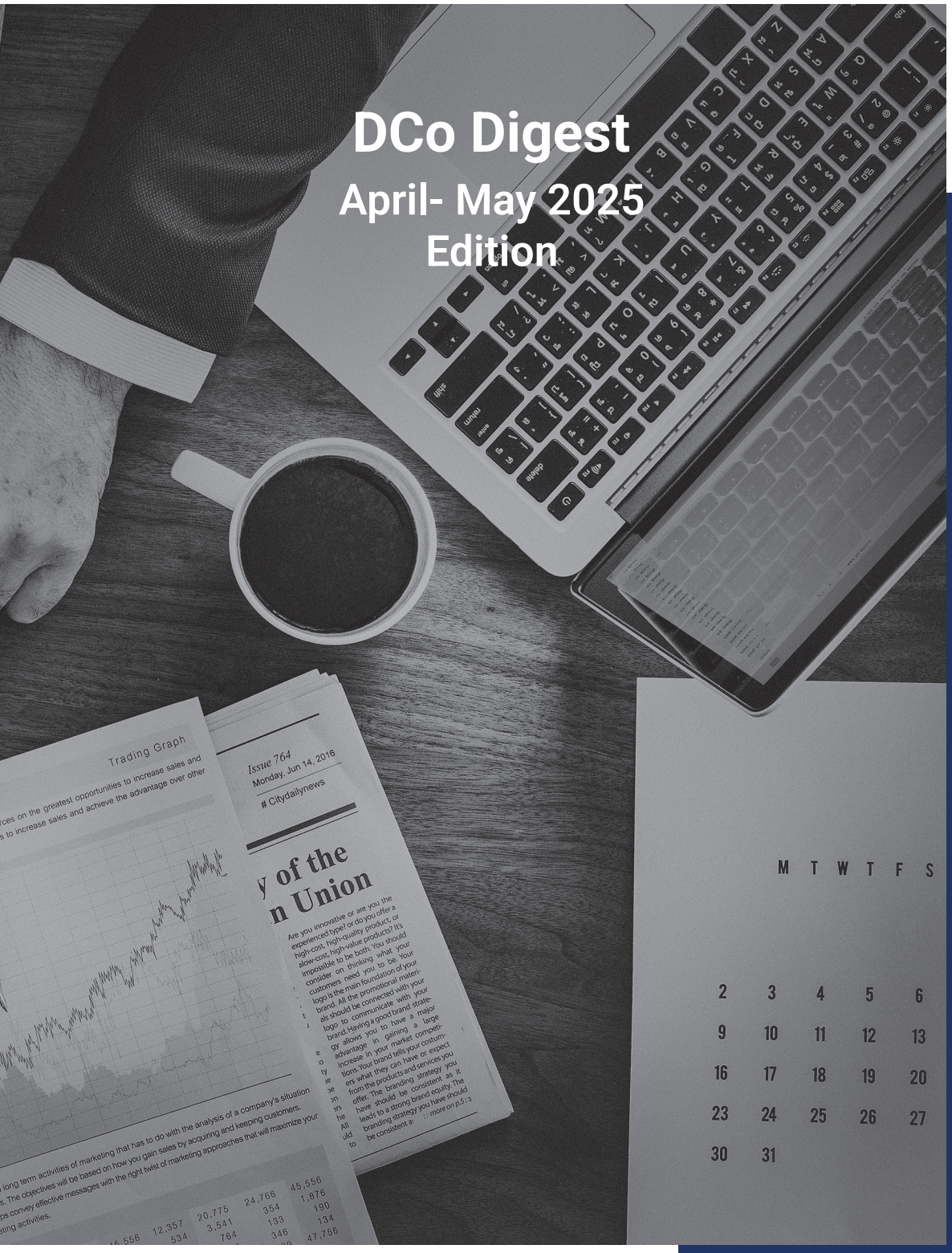



# DCo Digest

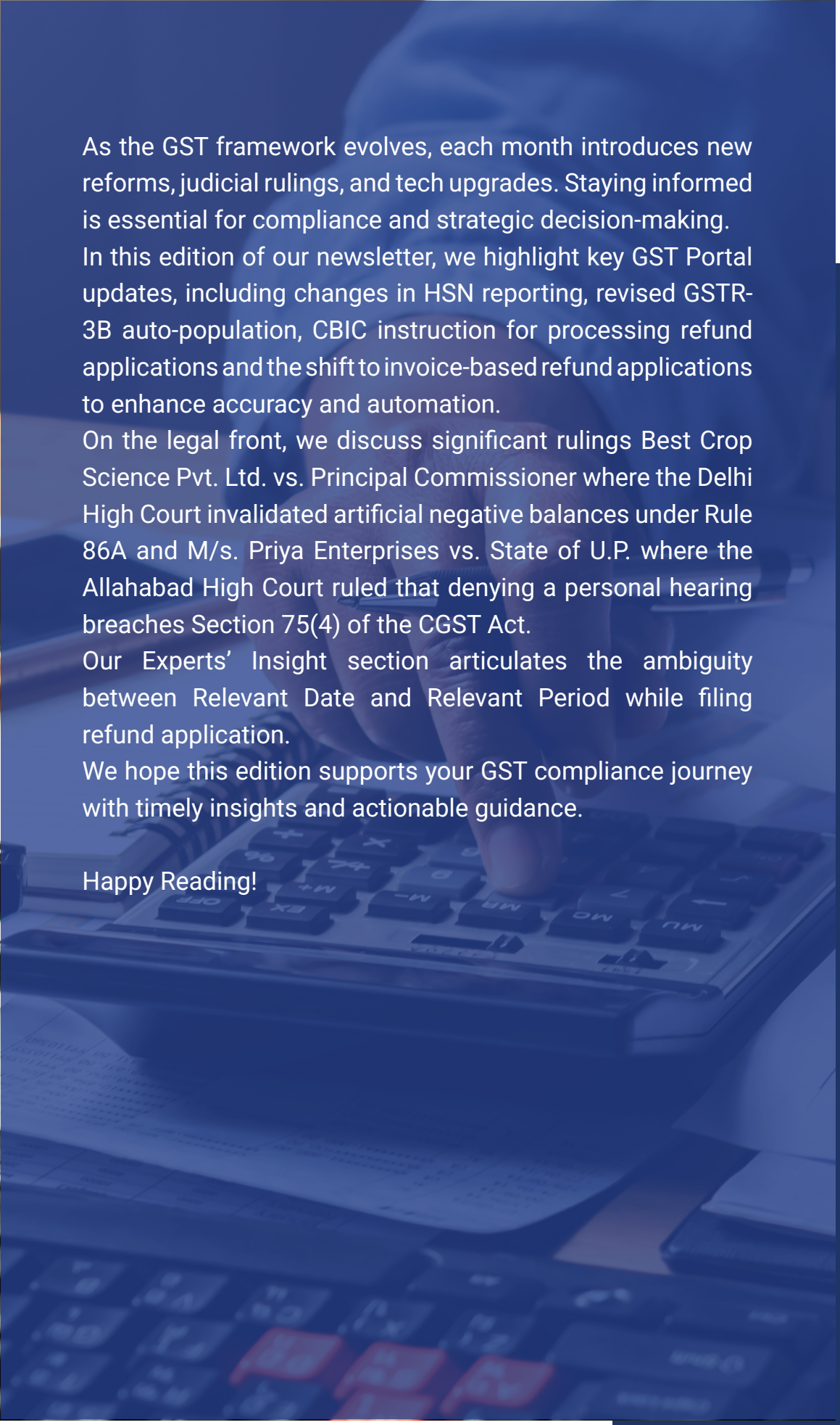
## April- May 2025 Edition

Dhadda & Co.
CHARTERED ACCOUNTANTS

# Newsletter

# Contents

# Preface



As the GST framework evolves, each month introduces new reforms, judicial rulings, and tech upgrades. Staying informed is essential for compliance and strategic decision-making.

In this edition of our newsletter, we highlight key GST Portal updates, including changes in HSN reporting, revised GSTR-3B auto-population, CBIC instruction for processing refund applications and the shift to invoice-based refund applications to enhance accuracy and automation.

On the legal front, we discuss significant rulings Best Crop Science Pvt. Ltd. vs. Principal Commissioner where the Delhi High Court invalidated artificial negative balances under Rule 86A and M/s. Priya Enterprises vs. State of U.P. where the Allahabad High Court ruled that denying a personal hearing breaches Section 75(4) of the CGST Act.

Our Experts' Insight section articulates the ambiguity between Relevant Date and Relevant Period while filing refund application.

We hope this edition supports your GST compliance journey with timely insights and actionable guidance.

Happy Reading!

# GST Appellate Tribunal (Procedure) Rules, 2025

The Ministry of Finance recently issued the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025 (GSTAT Rules) under Section 111 of the Central Goods and Services Tax Act, 2017 (CGST Act), to regulate the procedure and functioning of the GST Appellate Tribunal (Tribunal).

Key highlights of the GSTAT Rules include:

- Appeals must be filed online in the prescribed form through the GSTAT Portal.
- The Registrar of the Tribunal may reject an appeal form if the required accompanying documents are not submitted, or if necessary, amendments are not made within the specified timeframe.
- The procedure for hearing appeals is clearly prescribed, including steps to be taken if either the appellant or respondent fails to appear at the hearing.
- Notices or communications issued by the Tribunal may be served by any method specified under Section 169 of the CGST Act, with the GSTAT Portal serving as the common portal for such service.
- The Tribunal is mandated to pronounce its order immediately or as soon as practicable, and in no case later than 30 days from the date of the final hearing, excluding vacations and holidays.
- Additional provisions cover the Tribunal's powers and functions, maintenance and preservation of records, inspection procedures, fee schedules, affidavits, authorized representatives, inspection of State Benches, witness examination, case disposal, and more.

## Guidelines to Standardize GST Registration and Establish Grievance Redressal Mechanism

### Introduction

The CBIC has issued Instruction No. 03/2025-GST dated 17 April 2025 to streamline and standardize the GST registration process. It addresses concerns about excessive documentation and inconsistent practices by field officers, emphasizing adherence to the prescribed list in FORM GST REG-01 and curbing unwarranted queries.

Updates

Additionally, Instruction No. 04/2025-GST dated 2 May 2025 introduces a Grievance Redressal Mechanism, allowing applicants to report improper queries or rejections directly to Zonal CGST authorities for timely resolution.

**Instruction No. 03/2025-GST dated 17-04-2025**

**Instructions for processing of applications for GST registration vide Instruction No. 03/2025-GST**

CBIC highlights challenges faced by applicants during the GST registration process, primarily due to officers frequently seeking unnecessary clarifications and additional documents beyond those prescribed in Form GST REG-01. To address the inconsistent practices, the officers have been directed to strictly follow the indicative list of documents outlined in Form GST REG-01 and adhere to the prescribed registration procedures.

**A. Documents required in respect of proof of principal place of business (PPOB)**

| S. No. | Type of Premises | Required Documents | Remarks |
|---|---|---|---|
| (i) | Owned Premises | Any one from:<br>• Property Tax Receipt<br>• Municipal Khata Copy<br>• Electricity Bill<br>• Water Bill or similar local documents | No further documents should be asked; no physical originals needed. |
| (ii) | (a) Rented Premises | • Rent/Lease Agreement<br>• Any one ownership proof (as above) of lessor | PAN, Aadhaar, photo, etc., of lessor not to be sought |
| | (b) Rented Premises - Registered Agreement | • Registered Agreement<br>• Any one ownership proof | No ID proof of lessor required. |
| | (c) Rented Premises -Unregistered Agreement | • Unregistered Agreement<br>• Any one ownership proof<br>• ID proof of lessor | |
| | (d) Electricity/Water bill in tenant's name | • Such bill<br>• Rent Agreement | Acceptable without any lessor documents. |
| (iii) | Premises owned by spouse/relative | • Consent letter<br>• ID proof of consenter<br>• Any one ownership proof of consenter | No further applicant documents required. |

Updates

| | | | |
|---|---|---|---|
| (iv) | (a) Shared Premises with Agreement | • Rent/Lease Agreement<br>• Any one ownership proof | Registered agreement: No ID proof of lessor required. Unregistered: Include lessor ID proof. |
| | (b) Shared Premises without Agreement | • Consent letter from consenter<br>• Consenter ID proof<br>• Any one ownership proof | No additional documents should be asked. |
| (v) | Rented without Agreement | • Affidavit on stamp paper before Magistrate/Notary<br>• Any one possession proof like Electricity Bill in applicant's name | Affidavit must be notarized or attested by Magistrate. |
| (vi) | Special Economic Zone (SEZ) | • Relevant SEZ documents/ certificates issued by Govt. of India | Required for SEZ unit or SEZ developer. |

### B. Constitution of Business

| S. No. | Entity Type | Required Document | Note |
|---|---|---|---|
| (i) | Partnership Firm | Partnership Deed | No other certificates like Udyam, MSME, Shop Establishment etc. should be asked. |
| (ii) | Society, Trust, Club, Govt. Dept., AOP, BOI, Local Authority, Statutory Body, Others | Registration Certificate/ Proof of Constitution | Sufficient for constitution proof. |

### C. GST Registration Application Process

| Stage | Action | Timeline | Form Used | Responsible Officer | Remarks |
|---|---|---|---|---|---|
| 1 | Strunity of Documents | Upon Application | GST REG-01 | Propoer Officer | Completeness, legibility, authenticity |

Updates

| | | | | | |
|---|---|---|---|---|---|
| 2 | Approve if not risky | Within 7 working days | - | Proper Officer | If complete and no deficiencies |
| 3 | Physical verification if- a.Flagged as risky b. Aadhaar not c. Officer finds it necessary | Within 30 days | - | Assistant Commissioner or above | Approval only after site verification |
| 4 | Physical verification process initiation | Immediately | GST REG-30 | Proper Officer | Upload report 5 days before 30-day deadline |
| 5 | Clarification sought (if needed) | Within 7 or 30 working days (as applicable) | GST REG-03 | Proper Officer | Only for valid deficiencies (not presumptive or minor) |
| 6 | Applicant reply | Within 7 working days | GST REG-04 | Applicant | Must respond to REG-03 notice |
| 7 | Final decision: Approve or Reject | Within 7 working days of REG-04 reply | GST REG-05 (if rejected) | Proper Officer | Must record reasons in writing for rejection |
| 8 | No reply from applicant | After 7 working days of REG-03 | GST REG-05 | Proper Officer | Rejection with reasons in writing |
| 9 | Supervision by Commissioner | Ongoing | - | Principal/Chief Commissioners | Compliance to be ensured, staff adequacy, issue local guidance |

Updates

**Grievance Redressal Mechanism for processing of application for GST registration -reg.**

**Instruction No. 04/2025-GST dated 02-05-2025**

| S. No. | Action Point | Details | Responsible Authority |
|---|---|---|---|
| 1 | Grievance Eligibility | Applicants with grievances related to ARN assigned under Central jurisdiction | Applicant |
| 2 | Reporting Channel | Publicised email address for grievance submission | Principal Chief Commissioner / Chief Commissioner |
| 3 | Email Requirements | Must include:<br>• ARN details<br>• Centre/State Jurisdiction<br>• Brief description of issue | Applicant |
| 4 | Forwarding State-related Grievances | Forwarded to concerned State Jurisdiction with copy to GST Council Secretariat | Office of Principal Chief Commissioner / Chief Commissioner |
| 5 | Resolution & Feedback | Timely action to resolve issue and intimate applicant; advise applicant if query is valid | Principal Chief Commissioner / Chief Commissioner |
| 6 | Monthly Reporting | Submit status report on grievance redressal to DGGST | Principal Chief Commissioner / Chief Commissioner; DGGST compiles and reports to Board |

Compiled by CA Shreyansh Jain

Updates

# DCOD Cases

| Court | GST | Citation |
|---|---|---|
| | **Key Judicial Developments** | |
| SC | Gujarat High Court held that the 10% pre-deposit under Section 107(6)(b) of the CGST Act can be paid using ITC from the Electronic Credit Ledger.<br><br>It relied on CBIC's 6 July 2022 circular, which clarified that output tax, including that arising from adjudication, can be paid through ITC.<br><br>SC has dismissed Special Leave Petition of Department holding that HC does not need any interference. | [TS-415-SC-2025-GST] |
| SC | Review petition filed by **Government against SC decision in case of Safari Retreats judgment** has been dismissed as no error apparent on the record has been found by SC.<br><br>In the landmark decision in writ, Supreme Court held that whether construction of immovable property carried out by an assessee amounts to plant is to be decided on its merit by applying functionality test. | |
| SC | SC dismissed Revenue's SLP against HC decision which struck down CBIC Circular restricting refund of unutilised ITC under inverted duty structure (IDS) to edible oils and specialty fats manufacturer.<br><br>Andhra Pradesh HC held that, clarification "is neither logical nor in accordance with the understanding of law.." to the extent it provides that "the restriction imposed by the Notification, would be applicable in respect of all refund applications filed on or after 18.07.2022"; Without commenting on the validity of Notification No. 09/2022, HC directed reconsideration of refund applications, in terms of Section 54 of CGST Act, without relying upon the clarification issued in Circular No.181/13/22-GST | [TS-359-SC-2025-GST] |

| | | |
|---|---|---|
| SC | SC dismissed Revenue's SLP against HC judgment that held that blocking ITC in Electronic Credit Ledgers (ECrL) in excess of the credit available is unsustainable<br><br>Interpreting the words "amount equivalent to such credit" in Rule 86A, HC observed that the credit refers to the credit of input tax available in the ECrl and not past credit which was utilized or refunded.<br><br>In its decision, Delhi HC had enunciated various yard-sticks of interpreting Rule-86A by holding that<br>(a) utilization of credit is a vested right albeit in respect of credit that has been validly accrued,<br>(b) the power u/r 86A is a drastic power, with serious consequences for assessee,<br>(c) that it concerns the power of the Commissioner, under defined circumstances, to interdict assessee from accessing its valuable resource. | [TS-362-SC-2025-GST] |
| SC | SC confirms HC order quashing confiscation for mere excess stock detected during survey<br><br>SC dismisses Revenue's SLP against Allahabad HC which held that confiscation cannot be initiated u/s 130 of CGST Act solely due to excess stock found during an inspection.<br><br>Allahabad HC held that "on various occasions, this Court has held that if excess stock is found, then proceedings under sections 73/74 of the GST Act should be pressed in service and not proceedings under section 130 of the GST Act, read with rule 120 of the Rules framed under the Act | [TS-350-SC-2025-GST] |

Compiled by CA Shuchi Sethi

# Judicial Pronouncements

## Case 1: Best Crop Science (P.) Ltd. vs Principal Commissioner, CGST Commissionerate, Meerut (W.P.(C) NOS. 15380 OF 2023 AND 5250, 5395, 5397, 6997, 7183, 9350 AND 10980 OF 2024 CM NOS. 61699 OF 2023 AND 38315, 45297, 45298 OF 2024 dated 24/09/2024) – High Court of Delhi

**Issue:**

Whether Rule 86A of the Rules permits the Commissioner or an officer authorized by him, to block taxpayer's Electronic Credit Ledger by an amount exceeding the credit available at the time of issuance of the said order?

**Fact:**

That the Best Crop Science Private Limited ("the Petitioner") along with other petitioners filed Writ Petition against the orders passed by the Commissioner/ officer authorized by Commissioner, under Rule 86A of the Central Goods and Services Tax Rules, 2017 (hereafter called as "the Rules") to block the Input Tax Credit (herein after called "ITC") of Electronic Credit Ledgers (herein after called "ECL") of The Petitioners, which creates an artificial negative balance in the ECL.

Resultant to which, till the negative balance in the ECL of the respective petitioners is not extinguished by further addition (credit) of ITC in the ECL, the petitioners are disabled to utilize the ITC availed by them for payment of their dues. Thus, in effect, only the ITC remaining after adjusting the negative balance, would be available to the Petitioners for discharging its tax liability.

**Submissions of the parties**

It is submitted by the Petitioners that a taxpayer has a vested right in utilising the ITC as available in his ECL for discharge of its dues or in appropriate cases for seeking a refund of the same. Thus, the same could not be blocked or appropriated except by a specific statutory provision to the said effect.

The petitioners further submitted that a taxpayer's ECL can be blocked only to the extent as permitted under Rule 86A of the Rules, 2017 and it does not permit blocking ITC in ECL beyond the credit available at the time of passing the order.

Moreover, it is also contended by the Petitioner that Rule 86A of the Rules is required to be strictly interpreted and further, the said provision is unambiguous and therefore, is required to be interpreted by applying the Rule of literal interpretation.

In response of the same the Revenue contended that Rule 86A enables the Commissioner or an officer authorized by him to block the ITC equivalent to the amount of the ITC which is fraudulently availed or was ineligible. Further, they also submitted that there is no express provision in the law which limits the scope of power under Rule 86A of the Rules, to block only the credit balance as available on the date of the issuance of the said order.

**Analysis:**

It was observed by the Hon'ble court that Rule 86A(1) of the CGST Rules, stipulates that the Commissioner or any other officer authorized by him on his behalf but not below the rank of Assistant Commissioner can pass the order for disallowance of debit of an amount equivalent to such credit electronic credit ledger subject to the conditions stated herein:

- That there is credit of input tax available in the ECL
- That the commissioner or an officer authorized on his behalf has reason to believe that the credit of that the credit has been fraudulently availed or is ineligible on account of reasons set out in Clauses of Rule 86A(1) of the CGST Rules.

It was further observed by Court that the term "amount equivalent to" has to be read in conjunction with the words "credit of input tax available in electronic credit ledger", wherein the aforesaid expression relates to the credit of input tax available

in the taxpayer's ECL, which the Commissioner or the officer authorized by him has reasons to believe that it has been fraudulently availed or is ineligible. It does not refer to the ITC used in the past for payment of dues or which has been refunded.

It was noted by Court that, "Rule 86A of the CGST Rules is not a machinery provision for recovery of tax or dues under the CGST Act. It is not a part of the scheme of the machinery provisions for assessment and determination of the tax and dues as payable under the CGST Act. It is an emergent measure for protection of revenue by temporarily not allowing debit of available ITC in the ECL, which the Commissioner or an officer authorized by him has reasons to believe has been wrongfully availed."

Further, the Hon'ble court relying upon para 3.3.2 and 3.4.3 of Circular No. 20/16/05/2021-GST dated November 02, 2021 (herein after called "the Circular") and noted that, the Circular further support the literal interpretation of Rule 86A of the CGST Rules stating that the Commissioner or any officer authorized by him is empowered to block (not allowed to be debited) only to the extent of amount equivalent to the fraudulent or inadmissible ITC, has reason to believe is ineligible or fraudulently availed.

The Hon'ble court also referred to several judicial precedents in arriving at its decision, including the judgments of the Gujarat High Court in Samay Alloys India (P.) Ltd. v. State of Gujarat [2022] 135 taxmann.com 243 (Guj.) and Telangana High Court in Laxmi Fine Chem v. Assistant Commissioner [2024] 87 GSTL 197(2024) 18 Centax 134 (Telangana), both of which dealt with similar issues concerning the interpretation of Rule 86A, wherein it was held that Rule 86A could only be invoked to block the ITC which is available in the ECL at the time of the order and creating a negative balance by blocking more than the available ITC was illegal and beyond the scope of the rule.

In view of above, it was held by Hon'ble court that Rule 86A is an emergent measure meant to prevent use of wrongful ITC and is not a tool for tax recovery. It emphasized that blocking ITC beyond what is available creates an artificial negative balance, which is not allowed under the CGST Act or the rules. Thus, allowed the writ petition and disallow the debit from ECL in excess of the ITC available in ECL at the time of passing of Order.

**DCO Experts**

This judgement provides that:

- The Department is duly empowered to block the ITC available on the ECL having been fraudulent and irregularly/illegally availed ITC but to the extent of credit balance lying on the date of Order, but this does not give the power to the authorities to create negative balance in the ECL.

- The creation of the artificial negative balance in the ECL without following the adjudicatory process under Section 74 of the CGST amounts to the denial of the principles of natural justice and results in direct recovery from the taxpayer by alleging fraud / illegality in availing the ITC.

- If ECL is blocked in negative to the extent of alleged fraudulent ITC by using power conferred in Rule 86A, this would amount to denial of the right of ITC, which is available to the taxpayer on the compliance of the provisions of Section 16 of the CGST Act, 2017 and same will be violative of Section 16 of the Act, which is not permissible.

Compiled by Sudhakar Kumar
Reviewed by CA Divya Gupta

## Case 2: M/s. Priya Enterprises vs State of U.P. (WRIT TAX NO. 2051 OF 2025 dated 07/05/2025 - High Court of Allahabad)

**Issue:**

Whether the order passed without providing/ Offering personal hearing is Valid or not even if reply is filed after due date?

**Facts:**

That M/s Priya Enterprises (herein after called as "the petitioner") was issued Scrutiny Notice under section 61 of the CGST Act indicating various discrepancies in GST returns. The petitioner filled its reply to the said notice on 28.09.2024, however,

dissatisfied with the reply filed, a show cause notice under Section 73 of the CGST Act, 2017 was issued to the petitioner, wherein due date for furnishing reply has been provided as 28.12.2024 and date of personal hearing was fixed as 03.01.2025. However, the petitioner filed reply to said show cause notice on 17.01.2025.

After receiving reply, without providing opportunity of personal hearing, the order dated 28.02.2025 under section 73(9) of the Act creating the demand has been passed against petitioner. Being Aggrieved by the said order, Writ Petition has been filed by the Petitioner.

**Submissions of the parties**

It was submitted by petitioner that they had not claimed any excess ITC, but by mistake claimed the ITC under wrong head i.e. claimed ITC under IGST head instead of claiming the same under CGST and SGST head at the time of filing the GSTR 3B, which were revenue neutral. Further, after filing of reply no opportunity of personal hearing was provided, therefore the Petitioner could not substantiate the response to the show cause notice resulting to which Learned Authority did not communicate the deficiency to petitioner in the response filed and confirmed the demand by passing order, which resulted in injustice to the petitioner.

Further, it was also contended by the petitioner that the action of the authority of not providing opportunity of personal hearing is contrary to the provisions of Section 75(4) of the Act and therefore, the order passed by authority deserves to be quashed and set aside.

In response to the same, the Respondent argued that the response furnished by the petitioner has been appropriately considered while confirming demand. Further, if the petitioner has any grievance qua the merit of the order, it must file appeal under Section 107 of the Act i.e. Appeal before First Appellate Authority instead of filing of the writ petition and the act of filing of Writ Petition by Petitioner bypassing the alternative remedy cannot be permitted and therefore, the petition liable to be dismissed.

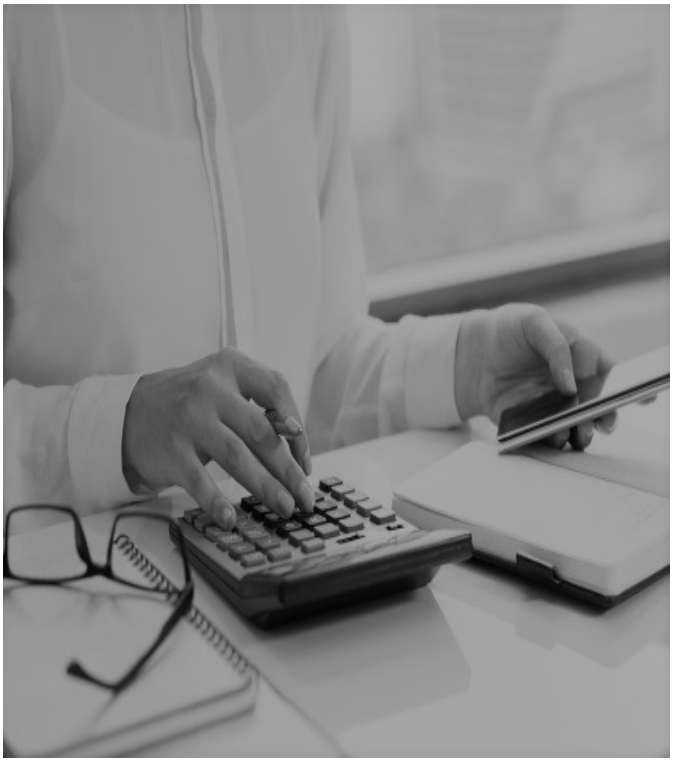
**Analysis:**

It was noticed by Hon'ble court that notice under Section 73 of the Act was issued to the petitioner and personal hearing was fixed on 03.01.2025. However, the response was filed after the said date on 17.01.2025 and order under dispute was passed on 28.02.2025, without providing/offering opportunity of personal hearing to the petitioner despite the fact there was sufficient time available to the authority between 17.01.2025 to 28.02.2025. In view of this, it was held by Hon'ble Court that not providing opportunity of personal hearing is contrary to the spirit of the provisions of Section 75(4) of the Act, which inter alia requires grant of opportunity of personal hearing before passing an adverse order. Therefore, remanded back the matter to the Adjudicating Authority to provide opportunity of personal hearing to the petitioner and pass a fresh order in accordance with law.

**DCO Experts**

This Judgment provides that any order passed without affording opportunity of personal hearing is not valid even if reply is filed after due date but before passing of order.

Compiled by Sudhakar Kumar
Reviewed by CA Divya Gupta



# Expert's Insight

# RELEVANT DATE FOR FILING REFUND VS RELEVANT PERIOD

**Introduction**

The framework for claiming GST refunds of unutilized ITC against zero-rated supplies or an inverted duty structure is laid out in Section 54 of the CGST Act, 2017 and further detailed in Rule 89 of the CGST Rules, 2017. While the Act prescribes a two-year window from a clearly defined "relevant date" for filing refund applications, the departmental practice has often misinterpreted this "relevant date" with the "relevant period". For instance, a taxpayer has accumulated ITC during tax period 2017-18, 2018-19 and 2019-20 against export under LUT, whereas the exported goods leave India on 30-09-2019. The relevant date in the give scenario is 30-09-2019 and the taxpayer can file a refund up to 30-09 -2021. The question that arises here is whether the taxpayer can avail refund of ITC availed before the relevant date?

**Discrepancy between enacted law and execution**

Section 54(1) of the Act states that any person who has paid tax, interest, or any other amount under the GST is eligible to apply for a refund of such amounts provided the application for refund has been submitted within two years from the relevant date. Parallelly, section 54(3) of the Act allows a registered person to claim a refund of unutilized ITC in the following two specific scenarios:

(a) Where zero-rated supplies are made without payment of tax under a bond or Letter of Undertaking and

(b) Where there is an accumulation of ITC due to the inverted duty structure i.e. the tax rate on inward is higher than the tax rate on outward.

The relevant date is defined under Explanation 2 to Section 54 of the CGST Act, 2017 as following:
taxpayer can avail refund of ITC availed before the relevant date?

| Event triggering Relevant Date | Relevant Date |
|---|---|
| Export of Goods by Sea / Air | Ship is Loaded / Aircraft Leaves India |
| Export of Goods by Land | Goods pass the Frontier |
| Export by Post | Despatch of goods by post Office |
| Export of Services | Later of Invoice Date or Payment Date |
| Inverted Duty Structure (up to 31.1.19) | End of FY in which the claim arises |
| Inverted Duty Structure (from 01.2.19) | Due date of furnishing GSTR-3B for the period for which refund arises |
| Refund arising from an order | Date of communication of such Order |
| Refund by a person other than a supplier | Date of receipt of goods or services |
| Any other Case | Date of Payment of Tax |

Now switching to section 16(3) of the IGST Act, 2017, which outlines the procedure for claiming refunds on zero-rated supplies, which include exports and supplies made to Special Economic Zones. In accordance with section 54 of the Act, the first option allows the supplier to make zero-rated supplies without payment of IGST by furnishing a bond or Letter of Undertaking (LUT), and in return, claim a refund of the unutilized input tax credit (ITC). The second option permits the supplier to pay IGST on such supplies and subsequently claim a refund of the tax paid.

In light of the provisions laid down under Section 16(3) of IGST and Section 54(3) of CGST, a taxpayer is entitled to claim a refund of unutilized ITC in cases involving zero-rated supplies or supplies made to a SEZ unit and in cases of Inverted duty structure.

Rule 89(4) and 89(5) of the CGST Rules 2017 prescribe the formulae for calculating the refund of unutilized ITC for zero-rated supplies and Inverted Duty Structure as following:

**Rule 89(4) – Refund of ITC against Zero-rated Supply**
Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) × Net ITC ÷ Adjusted Total Turnover

**Rule 89(5) – Refund of ITC in Inverted Duty Structure**
Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) × Net ITC ÷ Adjusted Total Turnover} – [{tax payable on such inverted rated supply of goods and services × (Net ITC ÷ ITC availed on inputs and input services)}].

Where, —
"**Refund amount**" means the maximum refund that is admissible;

"**Net ITC**" means input tax credit availed on inputs and input services during the relevant period.

"**Turnover of zero-rated supply of goods**" means the value of zero-rated supply of goods made

during the relevant period without payment of tax under bond or LUT.

"**Relevant period**" means the period for which the claim has been filed.

A careful analysis of the above formulae reveals that Net ITC is ITC availed on Inputs and Input services during relevant period, and relevant period is the period for which the claim has been filed. Let us now understand Relevant Date and Relevant Period.

**Relevant Date –** As per section 54 of the Act, relevant date is the start date for calculating the time limit of 2 years for filing of refund application. The relevant date is determined based on the occurrence of a specific prescribed event as tabulated above.

**Relevant Period –** Whereas relevant period on the other hand is the period for which the refund application is filed. Thus, Net ITC availed for relevant period is to be considered for the purpose of calculation of refund amount. The rule does not lay any restriction on the period for which Net ITC is to be considered for the purpose of calculation of refund.

Essentially in cases of refund of unutilised ITC against zero rated supply or due to inverted duty structure, section 54 puts a time restriction for filing refund application of 2 years from the relevant date which has been linked to occurrence of an event. For example, a refund application for zero-rated supplies can be filed up to the date on which the goods depart from India, as the relevant date is directly linked to the actual movement of goods and not the tax period. Thereby a refund application can be filed for any relevant period and in any frequency without breaching the time limit of two years from the relevant date. The clear intention of the law is to accommodate situations where ITC availed, and exports do not occur in the same period. However, the department has been persistently incorrect in taking relevant date as relevant period and thereby denying refunds on the ground of being time barred.

Additional support to the above argument can be found in Circular No.135/05/2020 – GST dated 31-03-2020 vide which the restriction on clubbing refund periods across financial years was removed which was initially observed in observed in Circular No.37/11/2018-GST, dated 15-3-201 and Circular No. 125/44/2019-GST dated 18-11-2019. The restriction was lifted as a consequence of the order dated 21.01.2020 in the case of M/s **Pitambra Books Pvt Ltd.,V/s Union of India [2020] 114 taxmann.com 122 (Delhi)** where Hon'ble Delhi High Court, vide para 13 of the said order had stayed the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 and has also directed the Government to either open the online portal so as to enable the petitioner to file the tax refund electronically, or to accept the same manually within 4 weeks from the Order.

***Para 12: Circulars can supplant but not supplement the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law.***

It is also worth mentioning the **case of CCE & ST, Bengaluru v. Span Infotech (India) Pvt. Ltd., reported in 2018 (12) GSTL 200 (Tri.-LB) before The CESTAT, South Zonal Bench, Bangalore,** where the issue pertained to the determination of the "relevant date" for the purpose of computing the time limit for filing refund of unutilized CENVAT credit under Rule 5 of the CENVAT Credit Rules, 2004 against export of services and it was held that Relevant date to be taken as the end of the quarter in which FIRC is received for exports since refund claim is filed for the quarter.

12. The related question for consideration is whether the time limit is to be restricted to the date of FIRC or can be considered from the end of the quarter. The Tribunal in the case of Sitel India Ltd. (supra), has observed that the relevant date can be taken as the end of the quarter in which FIRC is received ***since the refund claim is filed for the quarter.***

Under Service Tax Regime, export of services completed only with receipt of consideration in foreign exchange as per Service Tax Rules, 1994 as well as successor provisions, i.e., Export of Services Rules, 2005. The exporters of services were given the option to file claims for such refunds once in a quarter, however relevant date was not defined in the law.

In the case of **Span Infotech (India) Pvt. Ltd**., when Relevant date was not defined in the law for service exporters, yet the relevant date was determined based on occurrence of an event i.e. export of services on receipt of consideration in foreign exchange, instead of period in which the credit was availed i.e. the **Relevant Period**. On the contrary, in GST regime (when there is express definition of Relevant date for such refunds) the revenue authorities have been fusing Relevant date with the period of availment of ITC which neither comes out from express provision of the law, nor from application of any principle of interpretation. In-fact the GST portal also does not lay any such restriction on the taxpayer.

**Conclusion**

Upon examination of Section 16(3) of the IGST Act or Section 54(3) of the CGST Act and Rule 89 of the CGST Rules, it is found that no such restriction exists on filing refund application for tax period prior to relevant date. Thus, refund may be filed for unutilised ITC availed in different relevant period, whereas the goods have been exported in a different tax period. Likewise, refund of unutilised ITC (due to inverted duty structure) may be claimed in a different tax period, whereas the availment of ITC may have been made in a different tax period.

Written by CA Shefali Jain Bang

## Issue in filing applications (SPL 01/SPL 02) under waiver scheme

### Case Insensitivity in IRN Generation

Effective 1st June 2025, the Invoice Reporting Portal (IRP) will treat invoice/ document numbers as case-insensitive for the purpose of IRN generation. To maintain consistency and prevent duplication, all invoice numbers—regardless of whether they are reported in lowercase, uppercase, or mixed case (e.g., "abc", "ABC", or "Abc")—will be automatically converted to uppercase prior to IRN generation. This change aligns with the existing treatment of invoice numbers in GSTR-1, which already considers them case-insensitive.

### Reporting of HSN codes in Table 12 and list of documents in table 13 of GSTR-1/1A.

1. Vide Notification No. 78/2020 – Central Tax dated 15th October 2020, it is mandatory for the taxpayers to report minimum 4 digits or 6 digits of HSN Code in table-12 of GSTR-1 on the basis of Aggregate Annual Turnover (AATO) in the preceding Financial Year. To facilitate the taxpayers, these changes are being implemented in a phase-wise manner on GST Portal wherein Phase 2 was implemented on GST Portal effective from 01st November 2022.

2. In continuation of the phase wise implementation, Phase-3 of reporting of HSN codes in Table 12 of GSTR-1 & 1A is being implemented from May 2025 return period. The changes implemented are detailed in the table below.

| Phases | Taxpayers with AATO of up-to 5 cr. | Taxpayers with AATO of more than 5 cr. |
|---|---|---|
| Phase 3 | Mandatory reporting 4-digit HSN codes for goods & Services. | Mandatory reporting 6-digit HSN codes for goods & Services. |
| | i. Manual user entry of HSN will not be allowed. | |
| | ii. HSN code can be selected from drop down only. | |

New On GSTN Portal

| | |
|---|---|
| | iii. A customized description mentioned in HSN master will auto-populate in a new filed called "Description as per HSN Code". Phase |
| | In Table-12 validation with regards to value of the supplies have also been introduced.<br><br>i. These validations will validate the value of B2B supplies shown in different Tables viz: 4A, 4B, 6B, 6C, 8 (recipient registered), 9A, 9B (registered), 9C (registered), 15 (recipient registered), 15A (recipient registered) with the value of B2B supplies shown in table-12.<br><br>ii. Similarly, validations will validate the value of B2C supplies shown in different tables viz: 5A, 6A, 7A, 7B, 8 (recipient unregistered), 9A (export), 9A (B2CL), 9B (unregistered), 9C (unregistered), 10, 15 (recipient unregistered), 15A (recipient unregistered) with the value of B2C supplies shown in Table-12.<br><br>iii. In case of amendments, only the differential value will be taken for the purpose of validation.<br><br>*However, initially these validations have been kept in warning mode only, that means warning or alert message shall be shown in case of mismatch in values, whereas taxpayers will be able to file GSTR-1 in such cases. Further, in case B2B supplies are reported in other tables of GSTR-1, in such case B2B tab of Table-12 cannot be left empty. |

3. The following additional enhancement have been made in Table-12 of GSTR1/1A:

I. Table 12 of GSTR-1/1A is now bifurcated into two tabs, namely, "B2B Supplies" & "B2C Supplies". Taxpayers need to enter HSN summary details of B2B Supplies and B2C Supplies separately under respective tab.

II. A new button has been introduced in Table 12, "Download HSN Codes List". Upon clicking of this button, taxpayer would be able to download an excel file with the updated list of HSN & SAC codes for goods and services along with their description.

**Note:**

Table 13 of GSTR-1/GSTR-1A, which requires taxpayers to report details of documents issued, is now mandatory for the May 2025 return period onwards. Taxpayers must complete this table before proceeding with return filing. If B2B or B2C supplies are declared in any part of GSTR-1 or GSTR-1A and Table 13 is left blank, the system will trigger an error message, preventing submission until the required information is provided.

**Appeal withdrawal with respect to Waiver scheme**

If a withdrawal request (APL-01W) is filed before the final acknowledgment (APL-02) is issued, the appeal is automatically withdrawn without requiring approval. Whereas, if filed after APL-02, withdrawal is subject to approval by the Appellate Authority.

In both cases, the status updates to "Appeal Withdrawn", which satisfies the requirement under Section 128A waiver scheme that no appeal should be pending. Taxpayers must upload a screenshot showing the appeal status as "Appeal Withdrawn" while filing or updating a waiver application.

## Updates in Refund Filing Process for various refund categories-Reg

**1. Updated Refund Categories:**

GSTN has introduced key changes for the following refund categories:

i. Export of Services with payment of tax
ii. Supplies to SEZ Unit/Developer with payment of tax
iii. Refund by Supplier of Deemed Exports

**2. Removal of Tax Period Requirement:**

Taxpayers are no longer required to select a 'From' and 'To' tax period when filing refund applications under these categories. They can directly choose the relevant refund category and click on "Create Refund Application."

**3. Return Filing Compliance:**

All relevant returns (e.g., GSTR-1, GSTR-3B) must be filed up to the date of the refund application.

**4. Shift to Invoice-Based Filing:**

The refund process for these categories has moved from tax period-based to invoice-based filing. Invoices must be uploaded in the respective statements:

i. Statement 2 – Export of Services with payment of tax
ii. Statement 4 – SEZ Supplies with payment of tax
iii. Statement 5B – Deemed Exports (Supplier)

**5. Invoice Locking Mechanism:**

Once uploaded with a refund application, invoices will be locked and cannot be amended or reused in future refund claims. They will be unlocked only if:

i. The refund application is withdrawn, or
ii. A Deficiency Memo is issued.

**Refund Filing Process for Recipients of Deemed Export**

GSTN has removed the need to select a tax period for refund claims under exports with tax, SEZ supplies with tax, and deemed export refunds. Taxpayers can now directly create refund applications.

Refunds are now invoice-based. Invoices must be uploaded in the relevant statements and will be locked after filing. They can only be unlocked if the application is withdrwn or a deficiency memo is issued.

Compiled by CA Sourabh Chippa

Dhadda & Co.

CHARTERED ACCOUNTANTS

**Editorial Team:**

Arvind Dhadda, Yash Dhadda, Princy Dhadda, Mudit Jain, Shuchi Sethi, Shefali Jain Bang, Divya Gupta, Shreyansh Jain, Sudhakar Kumar, Ritika Dhakkad, Aditi Jangid Jain


0141-2724952

dhaddaonline.com

email@dhaddaonline.com

Jaipur




Thank You