



ASC

GST Times

Volume 21, June 2022



Compiled by: GST Team, ASC Group

Compliance Calender

S. No.	Due Date	Forms	Period	Description
1.	10.06.2022	GSTR-7	May, 2022	Return for Tax Deducted at source to be filed by Tax Deductor.
2.	10.06.2022	GSTR-8	May, 2022	E-Commerce operator registered under GST liable to TCS
3.	11.06.2022	GSTR-1	May, 2022	Taxpayers having an aggregate turnover of more than INR 5 crores or opted to file monthly return
4.	13.06.2022	GSTR-1	May, 2022	Taxpayers who have opted for Invoice Furnishing Facility (IFF) under Quarterly Return Monthly Payment ("QRMP") Scheme
5.	13.06.2022	GSTR-6	May, 2022	Every Input Service Distributor (ISD)
6.	20.06.2022	GSTR-5	May, 2022	Return for Non-Resident taxable Person.
7.	20.06.2022	GSTR-5A	May, 2022	Return for NRI, providing online information and database access or retrieval services to non-taxable person in India
8.	20.06.2022	GSTR-3B	May, 2022	Taxpayers having an aggregate turnover of more than INR 5 crore or have opted to file monthly return.
9.	28.06.2022	GSTR-11	May, 2022	Statement of inward supplies received by persons having Unique Identification Number
10.	25.06.2022	GST Challan	For quarterly filers	GST Challan payment if no sufficient ITC for May (for all quarterly filers)

INDEX

- ① Haryana Revenue Dept to share data of Commercial Rent/Lease Deed with Haryana Excise and Taxation Dept to curb evasion of GSTa
- ② Inflationary concerns may delay GST rate rationalisation: Report
- ③ LNG Jetties is not in the nature of 'Plant and Machinery', ITC not eligible: Gujarat AAAR
- ④ Waiver of the Late fees in furnishing Form GSTR - 4, for the Period May 2022 till June 2022
- ⑤ ₹ 700 crore GST fraud unearthed in Madhya Pradesh, 5 arrested
- ⑥ Deposit of Tax during the course of search, inspection, or investigation – reg.
- ⑦ Delhi GST Dept. released grievance redressal mechanism for pending refunds under GST and DVAT

Haryana Revenue Dept to share data of Commercial Rent/Lease Deed with Haryana Excise and Taxation Dept to curb evasion of GST



HARYANA EXCISE AND TAXATION DEPARTMENT

Sh. Pranab Kishore Das, ACS and FCR & Sh. Anurag Rastogi, ACS (E&T) met to discuss the issue relating to GST evasion in renting of immovable property (Other than for residential purposes).

GST has been carried @18% on the renting of immovable property (Other than for residential purposes).

Therefore, any taxpayer whose turnover exceed the threshold limit of Rs. 20lacs are required to obtain registration under the Act.

However, it has been observed that many individuals and institutions who are renting out properties for commercial purpose are **under reporting** or **not reporting** the transactions on which GST is levied.

Hence, the following are decided:

- a. Regular data sharing protocol shall set up between the Revenue Department and Excise and Taxation Department.
(This shall include the data of the past registered leases).
- b. System based checks will be introduced such as recording of PAN/GSTIN of the lessor during purchase of E-Stamp and Property Registration.

A special drive against the tax defaulters to recover tax on commercial Rentals and Leasing will be initiated by the Haryana Excise and Taxation Department. Source : [Livelaw](#)

Inflationary concerns may delay GST rate rationalisation: Report

As per the Sources, the current price situation leaves hardly any scope for rationalisation of GST rates

Under the GST Regime the current tax rates are 5%, 12%, 18%, & 28%.

Tax trimming was being considered to possibly three. Besides, gold and gold jewellery attract a 3% tax rate.

However, with the inflation rate ruling at an all-time high, there is hardly any scope for GST rate rationalisation.

Also, Sources further said that while the economy was recovering from the impact of COVID in 2021, geopolitical tension this year would again have bearing on it. “Council in the past was attentive of the then prevailing situation”.

Under GST, essential items are either exempted or taxed at the lowest slab, while luxury and demerit items attract cess on top of the highest 28 per cent slab.

The cess collection is used to compensate states for the revenue loss due to the GST rollout.

The Centre had agreed at the time of GST implementation as on July 1st, 2017, to compensate states for 5 years till June 2022, and protect their revenue at 14 per cent per annum over the base year revenue of 2015-16.

The GST Council over the years has often passed to the demands of the trade and industry and lowered tax rates. For example, the number of goods attracting the highest 28 per cent tax came down from 228 to less than 35.

With the implementation of GST in 2017, around 18 cesses were abolished, sources said.

The collection from these cesses in 2016-17 was Rs 56,641 crore, these cesses subside into GST and the collections are shared with the states as per the devolution formula.

The only major cesses that remain are the:

- a. GST compensation cess;
- b. health and education cess; &
- c. cess for central road and infrastructure fund.

The collection from these cesses has helped fund various government schemes and development activities:

- a. GST compensation cess (last fiscal was Rs 1.05 trillion, while the budget has pegged it at Rs 1.2 trillion in the current fiscal);
- b. health and education cess (Rs 47,307 crore last fiscal, and is budgeted to rise to Rs 53,846 crore this fiscal); &
- c. cess for central road and infrastructure fund (Rs 2.03 trillion in 2021-21, while for the current fiscal the budget estimate is over Rs 1.38 lakh crore).

Source: https://www.business-standard.com/article/economy-policy/inflationary-concerns-may-delay-gst-rate-rationalisation-report-122052501352_1.html



LNG Jetties is not in the nature of 'Plant and Machinery', ITC not eligible: Gujarat AAAR



Appellant's Name: M/s. Swan LNG Pvt. Ltd.

The Gujarat Appellate Authority of Advance Ruling (AAAR), comprised of Seema Arora and Milind Torawane, ruled that LNG jetties are not in the nature of "plant and machinery," but rather serve as the foundation for the installation of re-gasification equipment, apparatus, and machinery. The input tax credit on inputs, input services, and capital goods for the purpose of building these LNG jetties is not admissible.

The appellant has entered into a concession agreement with the Gujarat Maritime Board and the Government of Gujarat. The appellant undertook the development, construction, operation, and maintenance of a Liquefied Natural Gas (LNG) port with a Floating Storage and Regasification Unit (FSRU) facility near Jafrabad, Gujarat, on a Build, Own, Operate, and Transfer

basis. As a part of developing the LNG Port and FSRU facility, the appellant is developing an import terminal for FSRU near the village of Bhankodar, near Jafrabad, Gujarat. After the development of the Import Terminal, the appellant intends to provide LNG re-gasification service to prospective customers.

The appellant sought the advance ruling on the issue whether the LNG jetties proposed to be built by the applicant can be covered within expression 'plant and machinery' as foundation to equipment, apparatus, machinery to be installed on it.

The AAR ruled that the LNG jetties proposed to be built by the applicant are not covered within the expression 'plant and machinery' as foundation to equipment, apparatus, machinery to be installed on it in terms of Section 17 of the CGST Act, 2017 read with GGST Act, 2017.

"The applicant cannot avail the 'input tax credit' of GST paid on inputs, input services as well as capital goods procured for the purpose of building the LNG jetties in terms of Section 16 read with Section 17 of the CGST Act, 2017 read with the GGST Act, 2017," the AAR said.

The appellant filed an appeal against the AAR ruling under the provisions of Section 100 of the CGST and GGST Act, 2017. The appellant has quoted the text of Section 16(1) and contended that it entitles every registered person to take an input tax credit (ITC) of tax charged on the supply of goods or services or both, which are used or intended to be used in the course or furtherance of business.

The appellant cited Section 17(5)(c) and (d), which set forth limitations on the use of input tax credits. As per the Explanation to Rule 17(5), any foundation built for the installation of plant and machinery on it also gets covered under the expression "plant and machinery". As a result, the limitations on claiming input tax credits set forth in Sections 17(5)(c) and 17(5)(d) should not apply to foundations. Thus, the appellant contended that ITC of LNG jetties, which are actually foundations for the plant and machinery, should be available.

The AAAR found that allowing an input tax credit on the construction of a foundation cannot be decided in isolation without deciding as to whether items to be fixed on it fall within the definition of plant and machinery. The appellant has sought that the entire LNG jetties that are being constructed be treated as foundations for plant machinery that will be installed on it and to allow the input tax credit on inputs, input services, and capital goods to be used in the construction of said LNG jetties.

"We find that LNG jetties are nothing but civil structures, and civil structures are excluded from the definition of foundation and structural support. The foundation that is allowed in the definition of plant and machinery is that which fixes the plant and machinery to the earth, making it immovable. If a certain portion of LNG jetties is used for directly fixing plants and machinery, then it will not make jetties foundations for plants and machinery but they are only in the nature of civil structures," the AAAR while upholding the ruling of the AAR said.

Waiver of the Late fees in furnishing Form GSTR – 4, for the Period May 2022 till June 2022

As per the Notification No. 07/2022 –Central Tax, Central Government on the recommendation of the Council has waived the late fees payable for delaying in the furnishing of the Form GSTR-4, referring to the FY 2021-22 for the period from May 1st, 2022 till June 30th, 2022.

Source : <https://taxinformation.cbic.gov.in/view-pdf/1009317/ENG/Notifications>



₹ 700 crore GST fraud unearthed in Madhya Pradesh, 5 arrested

There has been an arrest of 5 people from Gujarat in connection with the alleged GST credit fraud of ₹ 700 crore.

Accused person created a network of around 500 bogus firms using forged documentation (addresses, fake identities, etc) and ran a fake GST credit racket, by generating and passing on ITC of more than ₹ 700 crore.

A joint investigation by the Central GST Commissionerate in Indore and the Madhya Pradesh Police's cyber cell revealed that the accused routed the transactions through digital

wallet accounts linked to different mobile numbers to avoid the conventional banking channels.

They were arrested from Surat in Gujarat on May 25.

The Key operator and his close associate are being interrogated by the CGST Indore Commissionerate officials, and the three others are being put to question by the cyber cell's cops in Indore.

During the search operation the mobile phones, SIM Cards, Documents, Seals, & the letter pads pertaining to the fake firms from the premises linked to the accused have been seized by the Officials.

As per the Cyber Cell Indore's unit inspector Rashid Khan, all the accused are school dropouts (Aged between 25-35)



Deposit of Tax during the course of search, inspection, or investigation – reg.

The CBIC vide Instruction No. 01/2022-23 [GST-Investigation] dated May 25, 2022 regarding no coercive actions to be taken for deposit of money during Search & Seizure.

1. Sometimes, In the course of Search, inspection or investigation, the taxpayers opt for the deposit of their GST liability either in part or full, arising out of the issue pointed by the department by furnishing DRC - 03. However, there certain occasions have been observed where the taxpayers after depositing the GST liability voluntarily by DRC - 03 have alleged the use of force and coercion by the officers for

making "Recovery" during the course of search, inspection or investigation. Also, Hon'ble High Court have also been approached by the taxpayers in such regard.

2. An examination has been conducted.

The CBIC concerned that for ensuring the correct application of law and to protect the interest of the taxpayers, it is important to clarify the legal position of the voluntary payment of taxes.

The following are observed:

- a. Tax payer has an option to deposit tax voluntarily via DRC - 03;
- b. Such Voluntarily payment can only be initiated by the taxpayers by logging onto the own GST portal; Before the issuance of the Show Cause Notice (SCN) the voluntarily payment is permissible in terms
- c. of Section 73(5) & 74(5) of the CGST Act, 2017;
The same will help the taxpayer to discharge their liability (admitted, self - ascertained, or as
- d. ascertained by the tax officer);
The liability in such case can be discharged without having to bear the burden of Interest under
- e. section 50 of the CGST Act, 2017 (i.e. Interest on delayed payment of tax);
Also, the same may save him from penalty that might be imposed on him subsequent to the issuance
- f. of SCN under the aforementioned sections.

3. Further observations:

- a. Recovery of taxes not paid/short paid, can be made under section 79 of the Act;
- b. However, the recovery can only be made after following the legal process of issuance of notice, and thereafter confirmation of demand by issuance of the adjudication order;
- c. No recovery until the amount becomes payable;
- d. Hence, no recovery can be made by the officer, during the course of search, inspection or investigation, on account of anu issue detected during such proceedings;
- e. Also, the law does not stop the taxpayer from making the payment voluntarily, either during the course of such proceedings or subsequently.

4. Hence, it has been clarified that:

- a. There may not be any circumstances requiring the recovery of tax dues during the course of search, or inspection, or investigation proceedings;
- b. However, the taxpayer can make voluntary payment at any time, on account of either short payment, or not payment, etc.
- c. The tax officer should however, notify the taxpayers regarding the provisions of voluntary tax payments through DRC - 03.

5. Pr. Chief Commissioners/ Chief Commissioners, CGST Zones and Pr. Director General, DGGI are advised that:
 - a. If, any complaint regarding the use of force or coercion is used by any of the officer, is received from a taxpayer, for depositing the amount during search or inspection or investigation, then, the same may be enquired at the earliest;
 - b. In case any lawlessness is identified on part of any tax officer, then, Strict actions as per law may be taken against the defaulting officers. Source : <https://taxinformation.cbic.gov.in/view-pdf/1000419/ENG/Instructions>

Delhi GST Dept. released grievance redressal mechanism for pending refunds under GST and DVAT

The Delhi GST Department vide Circular F.3(433)/GST/Policy/2022/1268-77 dated May 13, 2022 has released the grievance redressal mechanism for pending refunds under GST and DVAT.

1. The refund applications are required to be disposed within a stipulated time period of 2 months (Section 38 of DVAT Act, 2004);
2. Likewise:
 - a. taxpayer can claim payment and interest refund before the expiry of two years from the relevant date;
 - b. The office is required to issue the order <60days from the date of receipt of the application;
 - c. Otherwise, the interest shall be payable @6% on such refund application.
3. It has been observed that –
Applications of refunds are still pending beyond the permissible time limit;

In such regard the department has been issuing circulars from time to time for the disposal of the same.

Taxpayers have also approached the Hon'ble HC, and the HC has spotted the need to decide the applications within the statutory timeline.

Hence it becomes obligatory for the officers to ensure that the refund applications are disposed correctly, and in accordance with the defined timeline.

Likewise, pending VAT refund applications may have still be pending due to various reasons are required to be disposed.

4. To further streamline:
 - a. The process of disposal of refund application; &

b. To provide the dealers/taxpayers to register their grievances relating to the issue,

A mechanism is being put in place.

wherein, such dealers/taxpayers can file their by filling a simple Refund Grievances Redressal Form.

Grievances received can be handled as follows:

- a. The dealer will submit an application in the Refund Grievances Form, which is available on the home page of DVAT Portal at <https://dvat.gov.in/GrievanceForms/Grievance-page.html>
- b. EDP Branch will forward the details to the concerned Ward and Zonal incharge on the same day;
- c. The Ward in-charge will dispose of the application on merit within 10 working days of receiving the information;
- d. Zonal incharges will supervise the progress of disposal on daily basis and furnish an action taken report to the EDP Branch on weekly basis in the following format.

S. No.	Date (From to)	Number of Application Received during Week	Number of applications pending (Previous week)	Total number of applications	Number of applications Dispose off pending	Total number of applications

- e. Special Commissioner-I, shall be the Nodal Officer for monitoring the disposal of grievances in time bound manner and may issue necessary direction to the Zonal as well as Ward incharges wherever required. EDP Branch will submit a consolidated report to the Special Commissioner -I every week. Special Commissioner-I will submit a weekly report to Commissioner every Monday regarding cases which continue to remain pending even after the lapse of 10 days despite his directions to the Zone/ward;
- f. In case the ward officer doesn't report compliance to the nodal officer within 10 days, the nodal officer will bring it to the notice of the zonal incharge for appropriate entry in the APAR of the responsible officer.

5. EDP branch shall inform about this facility to the registered taxpayers by SMS and email.

Source : <http://dvatonline.gov.in/Docs/Circulars/2010685.pdf>

For enquiries related to:

Service	Contact Person
India entry, Business Start-ups, Merger & Acquisition and Business Restructuring	alok@ascgroup.in
Insolvency and Bankruptcy	anju@ascgroup.in
GST (Goods and Service Tax)	deepak@ascgroup.in
Custom and EXIM Policy, Income tax, International Taxation, Corporate Law and Transfer Pricing	shailendra@ascgroup.in
Legal Metrology, ETA, BIS and other registration	mayank.singhal@ascgroup.in
Japanese Desk	amit.sayal@ascgroup.in
Audit and Risk Advisory	ankush.goyal@ascgroup.in
Sourcing solutions	ravi.ahuja@ascgroup.in

Delhi Head Office

73, National Park, Lajpat Nagar IV,
New Delhi - 110024 (India)
Phone: +91-11-41729056-57, 41601289
www.ascgroup.in, info@ascgroup.in

Noida Corporate Office

C-100, Sector-2, Noida- 201301
Uttar Pradesh (India)
Phone No: +91-120-4729400

Gurgaon Office

605, Suncity Business Tower
Golf Course Road, Sector-54,
Gurugram - 122002, Haryana (India)
Phone No.: +91-124-4245110/116

Mumbai Office

MBAI SAGAR TECH PLAZA, A WING, OFFICE NO.
315-316, ANDHERI KURLA ROAD, SAKINAKA,
ANDHERI (E), MUMBAI - 400037, INDIA.
022-67413369/70/7171

Bengaluru Office

0420, Second Floor,
20th Main, 6th Block, Koramangala,
Bangalore - 560095, Karnataka (India)
Phone No.: 80-42139271

Chennai Office

Level2 - 78/132,
Dr RK Salai Mylapore
Chennai - 600004, Tamil Nadu (India)
Mobile No: +91-8860774980

Pune Office

UNE OFFICE NO. 4, 1ST FLOOR SILVER OAK,
SN NAGAR ROAD, WADGAON SHERI,
PUNE- MH - 411014
LANDMARK: NEAR INORBIT MALL

Singapore Office

11 Woodlands Close, #04-36 H,
Woodlands 11, Singapore - 737853
Mobile No: +65-31632191
www.ascgroup.sg,
info@ascgroup.sg

Canada Office

885 Progress Ave Toronto
Ontario M1H 3G3 Canada
Mobile No: +1437-774-4488

www.ascgroup.in



Disclaimer:

This e-bulletin is for private circulation only. Views expressed herein are of the editorial team. ASC or any of its employees do not accept any liability whatsoever direct or indirect that may arise from the use of the information contained herein. No matter contained herein may be reproduced without prior consent of ASC. While this e-bulletin has been prepared on the basis of published/other publicly available information considered reliable, we do not accept any liability for the accuracy of its contents.