



ASC

GST Times

Volume 22, July 2022



Compiled by: GST Team, ASC Group

Compliance Calender

S. No.	Due Date	Forms	Period	Description
1.	10 th July 2022	GSTR-7	June, 2022	Return for Tax Deducted at source to be filed by Tax Deductor.
2.	10 th July 2022	GSTR-8	June, 2022	E-Commerce operator registered under GST liable to TCS
3.	11 th July 2022	GSTR-1	June, 2022	Taxpayers having an aggregate turnover of more than INR 5 crores or opted to file monthly return
4.	13 th July 2022	GSTR-1	June, 2022	Taxpayers who have opted for Invoice Furnishing Facility (IFF) under Quarterly Return Monthly Payment ("QRMP") Scheme
5.	13 th July 2022	GSTR-6	June, 2022	Every Input Service Distributor (ISD)
6.	20 th July 2022	GSTR-5	June, 2022	Return for Non-Resident taxable Person.
7.	20 th July 2022	GSTR-5A	June, 2022	Return for NRI, providing online information and database access or retrieval services to non-taxable person in India
8.	20 th July 2022	GSTR-3B	June, 2022	Taxpayers having an aggregate turnover of more than INR 5 crore or have opted to file monthly return.
9.	22 nd July 2021	GSTR-3B	April - June, 2022	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of (Opt for QRMP Scheme): Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh or in the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep
10.	24 th July 2021	GSTR-3B	April - June, 2022	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of (Opt for QRMP Scheme): Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or in the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi
11.	28 th July 2022	GSTR-11	June, 2022	Statement of inward supplies received by persons having Unique Identification Number
12.	31 st July 2022	CMP-08	April - June, 2022	Quarterly challan-cum-statement to be furnished by composition dealers

INDEX

- ① News Highlights
- ② Press Release
- ③ Circulars, Instructions, & Notifications
- ④ Advance Ruling

Various functionalities made available for Taxpayers on GST Portal in May, 2022

The Goods and Services Tax Network ("GSTN") has issued module wise new functionalities deployed on the GST Portal in May, 2022 for taxpayers.

The functionalities have been made available on the following:

- a. Registration;
- b. Returns;
- c. Refund.

Sr. No.	Content	Form/Functionality	Functionality made available for the Taxpayers
1	Registration	Bank Account Validation of the Taxpayers	<ul style="list-style-type: none"> • To establish correctness of the bank account and to verify whether it matches with the PAN of the business, validation of the bank account details provided at the time of GST Registration/ Creation of Temp ID by the taxpayers is being done with CBDT database. • The status based on validation result is displayed to the registered taxpayers and Temp ID holders on their dashboard. • Taxpayers and Temp ID holders can verify their Bank account status in their profile by clicking on the Bank Account Status link under Quick Links.
2	Returns	Improvements made in filing process of GSTR-4 (Annual)	<ul style="list-style-type: none"> • Taxpayers who opt for Composition Levy are required to file an annual return in Form GSTR-4 from FY 2019-20 onwards. • Several taxpayers were earlier filing GSTR-4 without filling up the required details in Table-6 of the said form with the result that the amount paid through Form CMP-08s became excess tax paid and got credited to Negative Liability Statement. • To prevent taxpayers from making this mistake, they are now shown a warning message, "Table 4A to 4D and Table 6 outward supplies are required to be filled by taxpayer". • A reconciliation statement is also shown if difference occurs in table 5 and 6. • In addition, for taxpayer who have already filed Form GSTR-4 wrongly for the FY2019-20 and/ or FY2020-21, a code was deployed to update the Ledger

			Tables for correcting the negative liability, in the backend.
		Changes in Table 12 of Form GSTR1 for enabling HSN validation for taxpayers with AATO more than Rs 5 Crore	<ul style="list-style-type: none"> The taxpayers are required to furnish HSN wise summary of outward supplies in Table 12 of Form GSTR-1 on the basis of their Annual Aggregate Turnover (AATO) as per the following scheme:
			<ul style="list-style-type: none"> Taxpayers with AATO of up-to Rs 5 crore have to report their supplies at minimum 4 digit and maximum 8-digit HSN/SAC code for their B2B supplies. Taxpayers with AATO of more than 5 Crore have to report their supplies at minimum 6 digit and maximum 8-digit HSN/SAC code for B2B and B2C supplies. Accordingly, a phase wise AATO based validation has been built into the system to ensure that taxpayers with AATO of up-to Rs 5 crore have to report minimum 2 digit HSN and more than Rs 5 crore have to report minimum 4 digit HSN in table 12 of GSTR-1 in the phase 1 of HSN validation at the portal.
		Changes made in Form GSTR-11	<ul style="list-style-type: none"> The placement of 'INITIATE PRE-FILL OF GSTR-11' button has now been changed to right side corner of the screen. As and when a user clicks on this button, a warning message, "You are about to initiate the auto population of filed GSTR1/5 records in your Form GSTR-11. You may view/Edit/Delete the auto populated records in the respective GSTR-11 tables. Do you want to proceed?" would be displayed.
3	Refund	Facility to apply for Temp User ID by an unregistered persons for claiming refund on GST Portal	<ul style="list-style-type: none"> The un-registered persons will now be able to apply for Temp User ID on GST Portal by selecting the reason for registration as, "To claim Refund". They will be able to add their bank account details at the time of applying for Temp ID and subsequently edit their profile in respect of Authorized Signatory, Address and Bank Account details, if required. They can subsequently file for refund under the appropriate category on the Portal using their Temp ID credentials.

Karnataka: CBI arrests superintendents of GST, Customs over bribery charges

In Karnataka, two Superintendents of GST and a superintendent of customs in Karnataka has been arrested by the Central Bureau of Investigation (CBI) over bribery charges.

The Superintendents of GST in Karnataka's Ballari, Madhusudhana Kavadiki and Ananth Narhari, were arrested on Monday.

A case was filed, on a complaint alleging of demanding a bribe of INR. 100000 for closing the file of the complainant relating to GST payment, against the superintendent, office of Deputy Commissioner, Central Tax, GST Division, Bellary, and unknown others.

However, later onwards the bribe demanded reduced to INR. 80,000.

The CBI caught the officer red - handed, receiving the bribe amount from the complainant of INR. 80,000.

Other Superintendent was also caught.

In addition, searched were being conducted at the residential and the official premises of the officer being accused.

The officer will be produced before the jurisdictional court, Bengaluru.

Meanwhile, after a complaint been filed against the Superintendent of Customs, Shashikant Machindra Deshmukh, Chamarajpet in Bengaluru, for clearance of shipments imported by the complainant, the officer was arrested by the CBI for collecting the bribe of INR. 8,500 from the complainant.

Searches were being conducted at the premises of the accused at Bengaluru after the CBI laid a trap and caught the accused accepting bribe, which then led to the recovery of the incriminating documents.

The accused was produced before the jurisdictional court and remanded to judicial custody.



Location for the upcoming GST Council's meeting changed to Chandigarh

As per the GST Council's tweet on Saturday, June 18th, 2022, the location of the 47th meet of GST council has been moved from Srinagar to Chandigarh. The meeting is to be held during June 28th-29th.

The meeting of appointed Group of Ministers (GoM) has already been conducted. Karnataka Chief Minister Basavaraj Bommai leads the GoM.

The Group of Ministers (GoM) in the meeting, fully in agreement have decided to raise the GST @28% (from 18%) on casinos, race courses and online gaming.

The Council is likely to discuss:

1. Reducing the list of exempted items under the GST regime;
2. Plan to shift the tax slabs:
 - a. From 5% to 7/8 %; &
 - b. From 18% to 20%.
3. Correction of Inverted Duty Structure in textile sector.



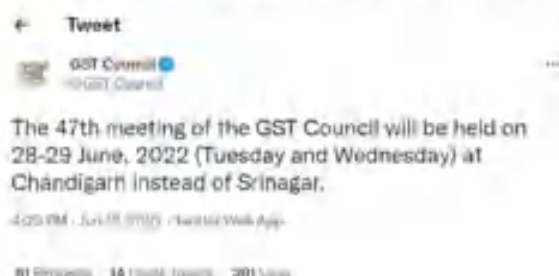
During the month of May, the Supreme Court in a ruling has said that, the GST Council is only a recommendatory body, hence, the recommendations are not binding either on Centre or States.

Further it was held that:

- a. Recommendations of the GST Council hold persuasive value;
- b. Also, that the matters related to GST can equally be legislated by both the Parliament and the State Legislature.

The GoM will submit the final report before the Council's meeting.

In the Meantime, the meeting of the CGST Department (Lucknow Zone & Meerut Zone) was also conducted as on Sunday, i.e. June 20th, in which officers of both zones were present.



GST Compensation Due Till Date (i.e. 31st May, 2022) Cleared By Centre

The entire amount of GST compensation (Up to 31st May, 2022) payable to the States amounting to INR. 86,912 cr has been released by the Government of India (GOI).

Despite the fact that about only INR. 25,000 cr is available in the GST compensation fund, the decision has been taken.

The Centre has released the balance of the compensation amount from its own resources pending collection of cess.

For:

- a. Assisting the states in managing their resources; &
- b. Ensuring that their programmes especially the expenditure on capital is carried out successfully

the decision was taken.

As assured by the Centre, the States were to be compensated for loss of any revenue arising on account of implementation of GST for a period of five years, as per the provisions of the GST (Compensation to States) Act, 2017

Cess levied on certain goods is being credited to Compensation Fund, which then be used to provide compensation to States.

The States protected revenue has been growing at the 14% compounded growth, however the cess collection did not increase in the same measure. Further gap has been increased by COVID-19 between protected revenue and the actual revenue receipt including reduction in cess collection.

Centre has borrowed and release INR. 1.1 Lac Cr in 2020-21 to meet the resource gap of the states due to short release of compensation. Also, to meet a part of the shortfall in cess collection, INR. 1.59 Lac Cr. has been borrowed in 2021-22 as back - to - back loan.

Also, regular GST compensation from the Fund has also been releasing by the Centre to meet the shortfall.

The States have gone along to the above decision.

Due to the collective efforts by the Centre and the States, a remarkable advancement has appeared in the GST collection including the Cess.

The details of GST compensation payable are given as per the table below: -

Dues for the month of April and May, 2022 INR. 17,973 Cr.

Dues for the month of February and March, 2022 INR. 21,322 Cr.

Balance of compensation payable upto January, 2022 INR. 47,617 Cr.

(State wise breakup given in separate table) Total INR. 86,912 Cr.

With this release of INR. 86,912 Cr., the compensation to states till May, 2022 gets fully paid and only compensation for June, 2022 would remain.

STATE WISE BREAKUP

S. No.	Name of State/UT	Amount released
(1)	(2)	(3)
1	Andhra Pradesh	3199
2	Assam	232
3	Chhattisgarh	1434
4	Delhi	8012
5	Goa	1291
6	Gujarat	3364
7	Haryana	1325
8	Himachal Pradesh	838
9	Jharkhand	1385
10	Karnataka	8633
11	Kerala	5693

12	Madhya Pradesh	3120
13	Maharashtra	14145
14	Puducherry	576
15	Punjab	5890
16	Rajasthan	963
17	Tamil Nadu	9602
18	Telangana	296
19	Uttar Pradesh	8874
20	Uttarakhand	1449
21	West Bengal	6591
	Total	86912



Recommendations of 47th Council Meeting

The 47th Council meet was held during 28th-29th June, 2022. The meeting was chaired by our Finance Minister Nirmala Sitharaman. Certain recommendations have been made by the GST Council relating to the GST Law and procedure.

NOTE: All rate changes recommended will be made effective from 18th July, 2022.

Such recommendations are as follows:

I. Recommendations relating to GST rates on goods and services

A. Rate Rationalization to remove inverted duty structure [Approval of recommendations made by GoM on rate rationalization]

S. No.	Description	From	To
GOODS			
1.	Printing, writing or drawing ink	12%	18%
2.	Knives with cutting blades, Paper knives, Pencil sharpeners and blades therefor, Spoons, forks, ladles, skimmers, cake-servers etc	12%	18%
3.	Power driven pumps primarily designed for handling water such as centrifugal pumps, deep tube-well turbine pumps, submersible pumps; Bicycle pumps	12%	18%
4.	Machines for cleaning, sorting or grading, seed, grain pulses; Machinery used in milling industry or for the working of cereals etc; Pawan Chakki that is Air Based Atta Chakki; Wet grinder;	5%	18%
5.	Machines for cleaning, sorting or grading eggs, fruit or other agricultural produce and its parts, Milking machines and dairy machinery	12%	18%
6.	LED Lamps, lights and fixture, their metal printed circuits board;	12%	18%
7.	Drawing and marking out instruments	12%	18%
8.	Solar Water Heater and system;	5%	12%
9.	Prepared/finished leather/chamois leather / composition leathers;	5%	12%
10.	Refund of accumulated ITC not to be allowed on following goods: <ul style="list-style-type: none"> i. Edible oils ii. Coal 		

Cont.

Services			
11.	Services supplied by foreman to chit fund	12%	18%
12.	Job work in relation to processing of hides, skins and leather	5%	12%
13.	Job work in relation to manufacture of leather goods and footwear	5%	12%
14.	Job work in relation to manufacture of clay bricks	5%	12%
15.	Works contract for roads, bridges, railways, metro, effluent treatment plant, crematorium etc.	12%	18%
16.	Works contract supplied to central and state governments, local authorities for historical monuments, canals, dams, pipelines, plants for water supply, educational institutions, hospitals etc. & sub-contractor thereof	12%	18%
17.	Works contract supplied to central and state governments, union territories & local authorities involving predominantly earthwork and sub-contracts thereof	5%	12%



B. Other GST rate changes recommended by the Council

S. No.	Description	From	To
Goods			
1.	Ostomy Appliances	12%	5%
2.	Orthopaedic appliance- Splints and other fracture appliances; artificial parts of the body; other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens	12%	5%
3.	Tetra Pak (Aseptic Packaging Paper)	12%	18%
4.	Tar (whether from coal, coal gasification plants, producer Gas plants and Coke Oven Plants.	5%/18%	18%
5.	IGST on import of Diethylcarbamazine (DEC) tablets supplied free of cost for National Filariasis Elimination Programme	5%	Nil
6.	Cut and Polished diamonds	0.25%	1.5%
7.	IGST on specified defence items imported by private entities/vendors, when end-user is the Defence forces.	Applicable rate	Nil
Services			
1.	Transport of goods and passengers by ropeways.	18%	5% (with ITC of services)
2.	Renting of truck/goods carriage where cost of fuel is included	18%	12%

C. Withdrawal of exemptions [Approval of recommendations made by GoM on rate rationalization]

C1. Until Now, GST was exempted on specified food items, grains etc when not branded, or right on the brand has been foregone.

However, it has been recommended to revise the scope of exemption to exclude from it pre-packaged and pre-labelled retail pack in terms of Legal Metrology Act, including pre-packed, pre-labelled curd, lassi and butter milk.

C.2 In case of the following goods, exemption from GST will be withdrawn:

S. No.	Description of goods	From	To
GST rate changes			
1.	Cheques, loose or in book form	Nil	18%
2.	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed	Nil	12%
3.	Parts of goods of heading 8801	Nil	18%

C.3 In case of the following goods, the exemption in form of a concessional rate of GST is being rationalized:

S. No.	Description of goods	From	To
GST rate changes			
1.	Petroleum/ Coal bed methane	5%	12%
2.	Scientific and technical instruments supplied to public funded research institutes	5%	Applicable rate
3.	E-waste	5%	18%

C4. In case of Services, following exemptions are being rationalized:

S. No.	Description
1.	Exemption on transport of passengers by air to and from North Eastern states & Bagdogra is being restricted to economy class.
2.	Exemption on following services is being withdrawn. <ol style="list-style-type: none"> Transportation by rail or a vessel of railway equipment and material. storage or warehousing of commodities which attract tax (nuts, spices, copra, jaggery, cotton etc.) Fumigation in a warehouse of agricultural produce. Services by RBI, IRDA, SEBI, FSSAI, GSTN. Renting of residential dwelling to business entities (registered persons). Services provided by the cord blood banks by way of preservation of stem cells
3.	Like CETPs, common bio-medical waste treatment facilities for treatment or disposal of biomedical waste shall be taxed at 12% so as to allow them ITC
4.	Hotel accommodation priced upto Rs. 1000/day shall be taxed at 12%
5.	Room rent (excluding ICU) exceeding Rs 5000 per day per patient charged by a hospital shall be taxed to the extent of amount charged for the room at 5% without ITC.
6.	Tax exemption on training or coaching in recreational activities relating to arts or culture, or sports is being restricted to such services when supplied by an individual.

E. Clarification on GST rate

Sr. No.	Particulars
	<u>Clarification relating to GST rates on Goods:</u>
1.	Electric vehicles whether or not fitted with a battery pack, are eligible for the concessional GST rate of 5%
2.	All fly ash bricks attract same concessional rate irrespective of fly ash content
3.	Stones covered in S. No.123 of Schedule-I (such as Napa stones), even if they are ready to use and polished in minor ways [not mirror polished], attract concessional GST rate of 5%
4.	The GST rate on all forms of mango under CTH 0804, including mango pulp (other than mangoes sliced, dried) attract GST at the 12%. Entry is also being amended to make this amply clear. Raw or fresh mangoes continue to be exempt
5.	Sewage treated water is exempted from GST and is not the same as purified water provided in S. No. 99 of notification 2/2017-CT(Rate). The word 'purified' is being omitted to make this amply clear
6.	Nicotine Polarilex Gum attracts a GST rate of 18%
7.	The condition of 90% fly ash content with respect to fly ash bricks applies only to fly ash aggregate, and not fly ash bricks. As a simplification measure, the condition of 90% content is being omitted
	<u>Clarification relating to GST rates on Services:</u>
1.	Supply of Ice-cream by ice-cream parlours shall be levied GST @ 5% without ITC
2.	Application fee charged for entrance or for issuance of eligibility certificate for admission or issuance of migration certificate by universities is exempt from GST
3.	Ginned or baled fibre is covered in entry 24B of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 in the category of raw vegetable fibres. The exemption under this entry is being rationalized
4.	Services associated with transit cargo both to and from Nepal and Bhutan are exempted
5.	Activity of selling of space for advertisement in souvenirs published in the form of books is eligible for concessional GST at 5%
6.	Renting of vehicle with operator for transportation of goods on time basis is classifiable under Heading 9966 (rental services of transport vehicles with operators) and attracts GST at 18%.GST on such renting where cost of fuel is included in the consideration charged is being prescribed at 12%
7.	Allowing choice of location of a plot is part of supply of long-term lease of plot of land. Therefore, location charge or preferential location charges (PLC) are part of consideration charged for long term lease of land and shall get the same treatment under GST
8.	Services provided by the guest anchors to TV channels in lieu of honorarium attract GST
9.	Additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and shall be given the same tax treatment as given to toll charges

10.	Services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF) are covered under the definition of health care services for the purpose of exemption under GST
11.	Sale of land after levelling, laying down of drainage lines etc. is sale of land and does not attract GST
12.	Renting of motor vehicles for transport of passengers to a body corporate for a period (time) is taxable in the hands of body corporate under RCM
13.	The expression 'public transport' used in the exemption entry at Sl No. 17(d) of notification No. 12/2017-CT(R), which exempts transport of passengers by public transport other than predominantly for tourism purpose, in a vessel between places located in India, means that such transport should be open to public for point to point transport [e.g. such transport in Andaman and Nicobar islands].

Other miscellaneous changes

1.	All taxable service of Department of Posts would be subject to forward charge. Hitherto certain taxable services of Department of post were taxed on reverse charge basis.
2.	Goods transport agency (GTA) is being given option to pay GST at 5% or 12% under forward charge; option to be exercised at the beginning of Financial Year. RCM option to continue.
3.	Service provided by Indian Tour operator to a foreign resident for a tour partially in India and partially outside India is to be subject to tax proportionate to the tour conducted in India for such foreign tourist subject to conditions that this concession does not exceed half of tour duration.

II. Further, the GST Council has inter-alia made the following recommendations relating to GST law and procedure:

A.	<u>Measures for Trade facilitation:</u>
1.	In-principal approval for relaxation in the provisions for suppliers making supplies through E-Commerce Operators (ECOs)
	<p>I. Waiver of requirement of mandatory registration under section 24(ix) of CGST Act for person supplying goods through ECOs, subject to certain conditions, such as-</p> <p>1.</p> <p>i. the aggregate turnover on all India basis does not exceed the</p>

	<p>turnover specified under sub-section (1) of section 22 of the CGST Act and notifications issued thereunder.</p> <p>ii. the person is not making any inter-State taxable supply</p> <p>II. Composition taxpayers would be allowed to make intra-State supply through e-commerce operators subject to certain conditions.</p> <p>The details of the scheme will be worked out by the Law Committee of the Council. The scheme would be tentatively implemented with effect from 01.01.2023, subject to preparedness on the portal as well as by ECOs.</p>
2.	<p>Amendment in formula prescribed in sub-rule (5) of rule 89 of CGST Rules, 2017 for calculation of refund of unutilized Input Tax Credit on account of inverted rated structure</p> <p>a. Change in formula for calculation of refund under rule 89(5) to take into account utilization of ITC on account of inputs and input services for payment of output tax on inverted rated supplies in the same ratio in which ITC has been availed on inputs and input services during the said tax period. This would help those taxpayers who are availing ITC on input services also.</p>
3.	<p>Amendment in CGST Rules for handling of pending IGST refund claims: In some cases where the exporter is identified as risky exporter requiring verification by GST officers, or where there is a violation or provisions of Customs Act, the refund claims in respect of export of goods are suspended/withheld.</p> <p>Amendment in rule 96 of the CGST Rules has been recommended to provide for transmission of such IGST refund claims on the portal in a system generated FORM GST RFD-01 to the jurisdictional GST authorities for processing. This would result in expeditious disposal of such IGST refund claims, after due verification by GST officers, thus benefitting such exporters.</p>

4.	<p>Re-credit of amount in electronic credit ledger to be provided in those cases where erroneous refund amount sanctioned to a taxpayer on account of accumulated ITC or on account of IGST paid on zero rated supply of goods or services, in contravention of rule 96(10) of the CGST Rules, is deposited by him along with interest and penalty, wherever applicable. A new FORM GST PMT-03A is introduced for the same.</p> <p>This will enable the taxpayers to get re-credit of the amount of erroneous refund, paid back by them, in their electronic credit ledger.</p>
5.	<p>Clause (c) of section 110 and section 111 of the Finance Act, 2022 to be notified by Central Government at the earliest. These provisions relate to-</p> <ol style="list-style-type: none"> retrospective amendment in section 50(3) of CGST Act, with effect from 01.07.2017, to provide that interest will be payable on the wrongly availed ITC only when the same is utilized; amendment in sub-section (10) of section 49 of CGST Act to provide for transfer of balance in electronic cash ledger of a registered person to electronic cash ledger of CGST and IGST of a distinct person. <p>The rules providing for the manner of calculation of interest under section 50 of CGST Act have also been recommended for more clarity. This will remove ambiguities regarding manner of calculation of interest and will also provide for transfer of balance in CGST and IGST cash ledgers between distinct persons, thereby improving liquidity and cash flows of such taxpayers.</p>
6.	<p>Waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22 and extension of due date for filing FORM GST CMP-08 for Q1 of FY 2022-23:</p> <ol style="list-style-type: none"> To extend the waiver of late fee under section 47 for delay in filing FORM GSTR-4 for FY 2021-22 by approximately four more weeks, i.e. till 28.07.2022 (The existing waiver is for the period from 01.05.2022 till 30.06.2022) To extend the due date of filing of FORM GST CMP-08 for the 1st quarter of FY 2022-23 from 18.07.2022 to 31.07.2022.

	GSTN has also been asked to expeditiously resolve the issue of negative balance in Electronic Cash Ledger being faced by some of the composition taxpayers
7.	Present exemption of IGST on import of goods under AA/EPCG/EOU scheme to be continued and E-wallet scheme not to be pursued further.
8.	<p>8. Issuance of the following circulars in order to remove ambiguity and legal disputes on various issues, thus benefiting taxpayers at large:</p> <p>a. Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification.</p> <p>b. Clarification on various issues relating to applicability of demand and penalty provisions under the CGST Act in respect of transactions involving fake invoices.</p> <p>c. Clarification on mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B.</p> <p>d. Clarification in respect of certain GST related issues:</p> <p>i. Clarification on the issues pertaining to refund claimed by the recipients of supplies regarded as deemed export;</p> <p>ii. Clarification on various issues relating to interpretation of section 17(5) of the CGST Act;</p> <p>iii. Clarification on the issue of perquisites provided by employer to the employees as per contractual agreement;</p> <p>iv. Clarification on utilization of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities.</p>
9.	Exemption from filing annual return in FORM GSTR-9/9A for FY 2021-22 to be provided to taxpayers having AATO upto Rs. 2 crores.

10.	Explanation 1 after rule 43 of CGST Rules to be amended to provide that there is no requirement of reversal of input tax credit for exempted supply of Duty Credit Scrips by the exporters.
11.	UPI & IMPS to be provided as an additional mode for payment of Goods and Services Tax to taxpayers under Rule 87(3) of CGST Rules.
12.	In respect of refunds pertaining to supplies to SEZ Developer/Unit, an Explanation to be inserted in sub-rule (1) of rule 89 of CGST Rules to clarify that "specified officer" under the said sub-rule shall mean the "specified officer" or "authorized officer", as defined under SEZ Rules, 2006.
13.	Amendment in CGST Rules to provide for refund of unutilized Input Tax Credit on account of Export of Electricity. This would facilitate the exporters of electricity in claiming refund of utilized ITC on zero rated supplies.
14.	Supplies from Duty Free Shops (DFS) at international terminal to outgoing international passengers to be treated as exports by DFS and consequential refund benefit to be available to them on such supplies. Rule 95A of the CGST Rules, Circular No. 106/25/2019-GST dated 29.06.2019 and related notifications to be rescinded accordingly.
B.	<u>Measures for streamlining compliances in GST</u>
1.	Provision for automatic revocation of suspension of registration in cases where suspension of registration was done by the system under Rule 21A(2A) of CGST Rules, for non-compliance in terms of clause (b) or clause (c) of sub-section (2) of section 29[<i>continuous non-filing of specified number of returns</i>], once all the pending returns are filed on the portal by the taxpayer. (<i>Amendment in rule 21A</i>)
2.	Proposal for comprehensive changes in FORM GSTR-3B to be placed in public domain for seeking inputs/suggestions of the stakeholders.
3.	Time period from 01.03.2020 to 28.02.2022 to be excluded from calculation of the limitation period for filing refund claim by an applicant under section 54 and 55 of

	CGST Act, as well as for issuance of demand/ order (by proper officer) in respect of erroneous refunds under section 73 of CGST Act. Further, limitation under section 73 for FY 2017-18 for issuance of order in respect of other demands linked with due date of annual return, to be extended till 30 th September, 2023.
C	The Council has decided to constitute a Group of Ministers to address various concerns raised by the States in relation to constitution of GST Appellate Tribunal and make recommendations for appropriate amendments in CGST Act.
D.	The GST Council approved ad-hoc apportionment of IGST to the extent of Rs. 27,000 crores and release of 50% of this amount, i.e. Rs. 13,500 crores to the States.
E.	The GoM on IT Reforms, inter alia, recommended that the GSTN should put in place the AI/ML based mechanism to verify the antecedents of the registration applicants and an improved risk-based monitoring of their behaviour post registration so that non-compliant tax payers could be identified in their infancy and appropriate action be taken so as to minimize risk to exchequer.

Circulars, Instructions, & Notifications

Sub: Revocation of cancelled GSTIN beyond 90 days by LGSTO'S/SGSTO'S based on Appeal order / High Court orders – Government of Karnataka

A Circular (No. /DCCT(E-G)/CR-07/2022-23) has been issued by the Government of Karnataka, relating to the issue regarding the revocation of the cancelled GSTIN beyond time period prescribed.

As per the GST laws [Section 29(2)(c)], where the registered person has not furnished proper returns, for a continuous period of 6 month, the GST officer has the power to cancel the registration of the person from such date, including any retrospective date, as deemed fit by the proper officer.

However, by applying in Form GST REG – 21, within 30 days of receiving the notice of cancellation, such person whose registration is cancelled, can apply for reversal of such cancellation.

Furthermore, on certain conditions, the aforementioned period of 30 days was extended to 90 days.

It was noticed that few of the tax payers did not apply for revocation within the prescribed time period, and beyond that the portal did not allow filing revocation application.

Hence, as the last resort to seek remedy for the issue, the taxpayers applied to Appellate Authorities/High Court.

In case allowed by the Appellate Authorities/High Court, to reverse such cancellation beyond the prescribed period, there was no e-mode arranged.

Hence, now a module has been developed and properly tested to solve such problem of reversing the cancelled registration beyond 90 days.

Now, taking help of the module, revocation after:

- a. Appeal; or
- b. Court orders,

LGSTO/SGSTO can reverse the effect of cancelled registration beyond 90 days.

The below shall be followed:

Registration Request → Approve Revocation Request → Revocation after Appeal/
High court

To enable the revocation:

The Offices has to

- a. Select the GSTIN; &
- b. Upload the PDF copy of the Appeal order/High Court Order along with the revocation proceedings drawn to revoke the cancelled registration.

The above shall be done with the Digital Signature Certificate of the respective officer.

In case of any issues/queries, the officers shall:

- a. Raise their Grievances on GST Pro; &
- b. Contact e-Governance section of this office.

Procedure Relating to the Sanction, Post – Audit, and Review of Refund Claims – Reg.

Instruction No. 03/2022, dated June 14th, 2022

Under the mentioned *Instruction*, reference has been drawn to the following:

- a. As per Section 107 (2) of the CGST Act, 2017, the commissioner has the power to review, if he may, any decision/order (including an order of refund, w.r.t. its legality or propriety).

Also, the commissioner may direct any subordinate to file an appeal against the said decision/order, within 6 months of its date of communication.

- b. Further, as per an entry in the Circular 17/17/2017 – GST dated November 15th, 2017:
 - Pre-audit refund orders are not required to be carried out; &
 - Post-audit refund orders, may, continue on the basis of extant guidelines.

However, the Board has been receiving reports of different practices being followed by the field formations regarding sanction, review and post – audit of refund claims.

Speaking order in respect of all refund claims has been issued for certain Commissionerate, and not for other Commissionerate in respect of which the refund has been sanctioned in full.

Likewise, different practices have been followed in case of review and post – audit too.

To ensure the uniformity and enabling monitoring of sanction in the procedure the matter has been analysed.

A. Sanction of Refund

I. Detailed guidelines relating to the processing of refund claims in GST have been issued:

- a. For manual processing of refunds - Circular No. 17/17/2017 -GST dated November 15, 2017; &
- b. For electronic filing and online processing of refunds - Circular No. 125/44/2019-GST dated November 18, 2019.

II. Under both the aforementioned Circulars, it has been mentioned that prior to taking any final decision the Proper Officer shall follow the principle of natural justice. Which provides that a detailed Speaking Order has to be issued providing a basis of refund sanction/rejection.

III. Hence, while passing the refund sanction order in FORM GST RFD – 06, Proper Officer uploads a detailed speaking order.

IV. The Speaking order shall contain the following details:

a. Details for all category of refund claims:

1. Period of refund claim, date of filing & category of refund;
2. Whether it has been checked that refund claim for the same period has not been filed in the same category including any claim filed under 'Any Other' Category;
3. Details of Deficiency Memo, in FORM GST RFD-03 issued in respect of the said refund claim previously;
4. Whether the refund has been claimed within the threshold of time as under the CGST Act, & Rules thereof;
5. Details of the documents/ statements uploaded along with the refund claim. Whether all requisites have been uploaded. Details of document furnished by the applicant via e-mail/ in soft copy/ in hard copy, if any, may also be provided;
6. Whether all the due returns have been filed by the applicant or not, whether any dues are pending recovery from the applicant, and whether refund is required to be withheld/ any amount is required to be deducted as per provisions of section 54(10) of CGST Act on account of non-filing of returns or dues being pending for recovery from the applicant;
7. Whether any SCN was issued to the applicant. Details of reply of the applicant and PH details;
8. Discussion and findings in respect of applicant submission. Details of case laws relied upon in deciding the matter, if any;
9. Whether provisions of unjust enrichment are applicable;

b. Additional details in case of the refund of accumulated ITC (on account of zero-rated supplies/ inverted rated structure) and refund of IGST paid on account of zero-rated supplies:

1. Whether the refund amount claimed has been debited from the electronic credit ledger, in terms of sub-rule (3) of rule 89 of CGST Rules;
2. In case of refund of IGST paid on account of zero-rated supplies, whether the amount of IGST has been paid through GSTR-3B return;
3. Whether the calculation given by the applicant of export/ zero-rated turnover, adjusted aggregate turnover, turnover of inverted duty supplies, as applicable, is correct as per the relevant provisions;
4. Whether calculation of Net ITC, where ever applicable, is correct as per the relevant provisions. Also, whether the verification of admissibility of ITC as per the provisions of GST Law has been done or not and the findings thereof;
5. Whether it has been verified that ITC on capital goods has not been included in calculation of Net ITC for refund of ITC in zero rated supplies.
6. Whether it has been verified that ITC in respect of input services as well as capital goods is not included in calculation of Net ITC in case of inverted tax structure refund
7. Whether refund has been restricted to the ITC as per those invoices, details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in FORM GSTR-2A of the applicant
8. in terms of Circular No. 135/05/2020-GST dated March 31, 2020;
Whether the refund is barred under the provisions of 2nd and 3rd proviso to section 54(3) of the CGST Act, 2017;
9. Details of computation of refund claim amount as per the relevant provisions/ prescribed formula in the Act/ Rules and verification whether the refund amount claimed is correct or not;
10. In case of refund on account of inversion, whether the supply qualifies for refund of unutilised ITC under clause (ii) of 1st proviso to section 54(3) of the CGST Act, 2017;
11. In case of refund on account of export of goods, whether the details of shipping bill/ bill of exports, where ever applicable, have been verified from the ICEGATE portal;
12. In case of refund on account of export of services, whether the claimant has furnished the BRC/FIRC/ other relevant documents evidencing receipt of export remittances in respect of zero-rated services for which refund is being claimed;
13. In case of refund on account of zero-rated supply by DTA to SEZ, whether the said supply is meant for authorized operations on the basis of Letter of Authorisation (LOA). Further, whether the details of supply by the applicant to the SEZ have been cross checked from the SEZ Online portal;
14. Whether the documents pertaining to zero-rated supply to SEZ have been endorsed by the specified/authorized officer of the zone;
15. Whether the DTA supplier has received the payment from the SEZ recipient in case of supply of services to SEZ.

c. Additional details in case of refund of tax paid on supplies regarded as deemed export:

1. Whether necessary procedure was followed while making procurement/supplying of goods regarded as deemed exports.
2. Whether the ITC claimed against the tax paid on such deemed export supplies has been debited from the electronic credit ledger by the recipient for filing application of refund.
3. Whether it has been verified that no ITC has been claimed by the recipient when refund is claimed by supplier.

d. Additional details in case of refund of excess balance in cash ledger:

1. Whether the amount claimed has been debited from the electronic cash ledger.
2. Whether the amount to be refunded has been calculated in accordance with the provisions of section 49(6) of CGST Act.

e. Additional details in case of refund filed under the other categories of refund except those mentioned above:

1. Whether the documents furnished/uploaded along with the refund claim have been verified for their correctness from the source like FORM GSTR-1, FORM GSTR-3B, ICEGATE portal etc., where ever required;
2. Details of the verification conducted and reasoning for grant/ rejection of refund;
In case of refund ITC filed under "Any Other" category, whether the amount claimed has been
3. debited from the electronic credit ledger, wherever required.

V. ACES-GST Portal provides the facility for uploading a document in PDF format along with the FORM GST RFD-06 order. And can be used by the proper officer for uploading the speaking order. The same is made available online to the refund applicant, and the Post-audit/Reviewing Authority.

B. Post-Audit and Review:

I. Section 107(2) of the CGTS Act as mentioned earlier in this instruction has been replicated as follows:

The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

II. As per the abiding practice, all refund orders for the examination of legality, and propriety of refund order, and for the requirement of the appeal to the Appellate Authority, are required to be reviewed.

III. Refund claims are not put through pre-audit, as mentioned in Circular No. 17/17/2017 – GST, November 15, 2017. However, post – audit of the same may continue.

IV. However, considering the volume of refund claims, decision has been made that post – audit may, henceforth be conducted for refund claims amounting to Rs. 1Lakh or more.

V. The following guidelines shall be followed for post – audit and review:

- a. All refund orders passed, should after issuance of order in FORM GST RFD – 06, immediately be transmitted to the review module. The review and post audit officers shall have access to all documentation on ACES - GST;
- b. A Post-Audit Cell under a Deputy/Assistant Commissioner along with one/ two Superintendents and Inspectors as required, may be created in Commissionerate Headquarters;
- c. Post Audit shall be completed within 3 months from the date of issue of FORM GST RFD – 06, and the findings shall also be communicated;
- d. The review of the refund order shall be completed at least 30 days before the expiry of the time period allowed for filing appeal under Section 107(2) of the Act.

VI. Until the functionality is developed on ACES GST, post audit refund orders may be conducted in offline mode. For the purpose the relevant documents and the refund orders may be provided to the Post – Audit Cell by the respective Division through-office within 7 days of issuance of refund sanction order in FORM GST RFD-06.

The report of the post audit may be furnished by the Post-Audit Cell to the Review Cell through e-Office within 3 months from the date of issue of FORM GST RFD – 06.

Extension of GST Compensation Cess

Ministry Of Finance had issued Notification No. 01/2022- Compensation Cess dated June 24, 2022, regarding Government extends GST Compensation levy upto March 2026.

The period for levy and collection of cess under sub-section (1) of section 8 of the Goods and Services Tax (Compensation to States) Act, 2017 shall be upto the 31st March, 2026.

Advance Ruling

Order No: GST-ARA- 44 /2020-21/B-41 (Maharashtra)

Dated: March 31st, 2022

Applicant: M/s B P Sangle Constructions Pvt. Ltd.

Issue Involving: Determination of time and value of supply of goods or services or both.

Fact of the case (as per the applicant):

1. The applicant has been awarded the tender from the NHAI for the construction of the road;
2. The tender consisted of a clause that, in case there is a change in the rates of labour, steel, cement, plant, machinery, spares, bitumen, spares, lubricants, etc. the contract price shall increase or decrease as per the formula provided in the tender notice;
3. The same was agreed for a price. Also, there exists an escalation clause in the agreement.

Question on which AR is sought:

"Whether escalated value shall be added to the taxable value u/s 15 of the act, or otherwise?"

Observations on AR:

1. The relevant provisions of the GST Act shall be applicable as the contract was executed after the appointed date. Hence the tax liability shall arise under the GST Laws;
2. Also, as per the contract there is an escalation in the contract value, and the GST Liability shall arise on such escalated price;
3. The liability to pay tax shall be on the value determined as per the provisions of Section 15 of the CGST Act, 2017, "The value of supply shall be the transaction value, which is the price actually paid or payable for the said supply, where such price is the sole consideration;
4. The liability to pay tax shall arise in accordance with section 12, 13, & 14 of the CGST Act, 2017, "Time of Supply";
5. "Time of Supply of Services":
 - (1) The Liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.
 - (2) The Time of Supply shall be the earliest of the following:
 - a. Date of issue on invoice, if issued in accordance with section 31, or date of receipt of payment, whichever is earlier;

- b. Date of provision of services, if invoice not issued in accordance with section 31, or the date of receipt of payment, whichever is earlier.

Explanation:

- i. The supply shall be deemed to have been made to the extent it is covered by the invoice or as the case may be, the payment;
- ii. The date of receipt of payment – shall be the date on which the payment entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

As per the submissions, there were no pending supplies during the pre-gst period and no invoice was raised during the said period.

Conclusion:

The escalated value shall be added to the original value of the contract and the total of the escalated value plus original value of the contract will be the transaction/taxable value u/s 15 of the Act, on which GST must be discharged by the applicant.

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