



ASC

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Compiled by: GST Team, ASC Group

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Message from Director

Dear Reader,

I would like to express my gratitude for taking out your valuable time to read our monthly newsletter "GST Times". We are particularly grateful to our regular reader for unwavering support to keep the knowledge-sharing initiative alive in the form of monthly newsletter, articles, knowledge videos, etc



GST is now the single largest indirect tax levied within India on the supply of goods and services which impacts every individual or business staying/operating in India. In such situation, it becomes essential to keep ourselves updated with all compliances and government notification related to GST.

Our objective of releasing this newsletter is imparting expert analysis and knowledge on all GST-related clarifications, circular, notifications, periodic updates, news, government policies, etc. We also combine the "Compliance Calendar" in this newsletter giving the due date on GST to make sure you file before the due dates.

We, as ASC, always believe in strengthening the relationship between our clients. We understand and value holistic growth through our expert consultancy services in the field of taxation, assurance, financial and legal dimensions.

I am hopeful that reading this newsletter would be rewarding to the readers. This small initiative shall go a long way in building our healthy relationships and create the platform to work together in near future. I would like to request my readers to kindly share your valuable comments & suggestions on this initiative for its further improvisation.

ASC Group, continues to leader for financial, legal, taxation, secretarial and business consulting firm for 27+ years, operation in 9 location globally with 1000+ functional clients. Our team of 300+ professionals consists of experienced Chartered Accountant, Companies Secretaries, Lawyers, Investment Advisory, and Management Consultant who continuously contribute towards the ease o doing business across the world.

I wish to close my note with the words "Content could be anything, but it should add value to the reader's life".

Deepak Kumar Das
Director
ASC Group

Compliance Calender

S. No.	Due Date	Forms	Period	Description
1.	10.01.2023	GSTR – 7	December 2022	Summary of Tax Deducted at Source (TDS) and deposited under GST laws.
2.	10.12.2023	GSTR – 8	December 2022	Summary of Tax Collected at Source (TCS) and deposited by e-commerce operators under GST laws
3.	11.01.2023	GSTR – 1	December 2022	GST Filing of returns by a registered person with aggregate turnover exceeding INR 5 Crores during the preceding financial year or any registered person have opted to file monthly return.
4.	13.01.2023	GSTR – 1	Oct-Dec' 2022	Details of B2B Supply of a registered person with turnover less than INR 5 Crores during the preceding year who has opted for Invoice Furnishing Facility(IFF).
5.	13.01.2023	GSTR – 6	December 2022	Details of Input Tax Credit (ITC) received and distributed by an Input Service Distributors (ISD).
6.	13.01.2023	GSTR – 5	December 2022	Summary of outward taxable supplies and tax payable by a non-resident taxable person.
7.	20.01.2023	GSTR -5A	December 2022	Summary of outward taxable supplies and tax payable by a person supplying OIDAR services.
8.	20.01.2023	GSTR – 3B	December 2022	GST Filing of returns by a registered person with aggregate turnover exceeding INR 5 Crores during the preceding financial year.
9.	25.01.2023	GSTR – 3B	Oct-Dec' 2022	Registered person opted to file return under QRMP Scheme.
10.	28.01.2023	GSTR – 11	December 2022	Statement of inward supplies received by persons having Unique Identification Number (UIN).

Highlight on action against GST raids over BJP MLA meet by Traders

In Firozabad, the GST department is running a vigorous raid campaign in the matter of tax evasion, due to which the traders are very scared. On the call of Mukund Mishra, the provincial president of the UP-Industry Trade Board, the trade board officials took out a procession from Gandhi Park at ten in the morning and reached the residence of Sadar MLA Manish Asija in Arya Nagar. Along with gheraoing the MLA, a memorandum addressed to the Chief Minister was also handed over to the MLA. During this, traders demanded to stop the harassment of traders in the name of GST.



Ambesh Kumar Sharma, Metropolitan President of the Board of Trade, said, "Traders are being harassed in the name of the GST survey and are being intimidated. Due to this, there is a lot of anger among the traders. They have demanded that whenever GST action is taken, the business leaders should also be informed to maintain transparency".

The GST team again reached Shikohabad on Saturday, but Jasrana's market was closed due to fear of action. The team caught tax evasion in three firms in Shikohabad. The traders deposited the tax along with the fine on the spot.

CBIC extends the due date for filing GSTR-1 for November, 2022 in certain places of Tamil Nadu

Earlier, the CBIC vide Notification 83/2020-Central Tax dated November 10, 2020 ("the Notification") extended the time limit for furnishing the details of outward supplies in Form GSTR-1 of the Central Goods and Services Tax CGST Rules, 2017 ("the CGST Rules") for each tax periods till 11th day of the month succeeding such tax period.

Now, the CBIC vide Notification No. 25/2022-Central Tax dated December 13, 2022, amended the Notification.

Through the amendment, the following proviso has been inserted after the second proviso.



"Provided also that the time limit for furnishing the details of outward supplies in FORM GSTR-1 of the said rules for the tax period November 2022, for the registered persons required to furnish return under sub-section (1) of section 39 of the said Act whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Tiruvannamalai, Ranipet, Vellore, Villupuram, Cuddalore, Thiruvarur, Nagapattinam, Mayiladuthurai and Thanjavur in the State of Tamil Nadu, shall be extended till the thirteenth day of the month succeeding the said tax period."

The Notification already contained two proviso as discussed below:

1. The first proviso is applicable to registered persons required to furnish a return for every quarter under proviso to sub-section (1) of section 39 of the CGST Act. For such registered payers, the date is extended till the 13th day of the month succeeding such tax period, and;
2. The second proviso is applicable to the registered persons required to furnish returns under sub-section (1) of section 39 of the CGST Act for the tax period April 2021 and May 2021. For such registered persons, the date is extended till the 26th day of the month succeeding the said tax period.

Now, post amendment, the third proviso has been inserted which is applicable to the registered persons required to furnish returns for the tax period November 2022 under sub-section (1) of section 39 of the CGST Act, whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Tiruvannamalai, Ranipet, Vellore, Villupuram, Cuddalore, Thiruvarur, Nagapattinam, Mayiladuthurai and Thanjavur in the State of Tamil Nadu. For such registered persons, the date has been extended till the 13th day of the month of the succeeding tax period.

Works contract for Govt to be rented out 18 percent GST payable

This is the recent news regarding, "18% GST is payable on works contract service of constructing warehouse and cold storage godown for Govt. entity which will be rented out" dated 16/12/2022 Official source Live Law.in.

The Telangana AAR ruled that work contract services for constructing warehouses and cold storage for Telangana State Industrial Infrastructure Corporation Limited ('TSIICL') attract 18% GST.

TSIICL is a Government entity that rents out warehouses and cold storage facilities. The applicant is in the business of working contracts and constructing the building on the land provided by the TSIICL.

The applicant constructs warehouses and cold storage at the primary processing center. The applicant stated that TSIICL would rent out godowns, which amounts to business activity.

The Government of Telangana wholly owns the TSIICL; hence the supply of contract services to TSIICL would be considered services to a Government entity.

Accordingly, the applicant states that Notification No. 11/2017 allows charging a concessional tax rate of 12% for services provided to government entities and authorities. However, the construction is primarily for use other than industry, commerce, or any other business or profession.

Amid this, the applicant sought an advance ruling regarding the GST on the works contract provided to the TSIICL.

The AAR stated that the concessional tax rate is not applicable as the TSIICL rents the godowns, and the GST of 9% CGST and SGST each attracts to the transaction. AAR also stated that the CBIC amended the entry w.e.f 1st January 2022 vide Notification No. 15/2021, deleting the phrases "government entity" and "government authority" from the entry at S.No. 3(vi) of Notification No. 11/2017.

Thus, AAR ruled that the works contract services provided for the government entity or authority will attract 18% GST.

Key highlights on 48th GST Council Meeting held today

The 48th GST Council met under the Chairmanship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman via virtual mode in New Delhi on December 17, 2022. The meeting was also attended by Union Minister of State for Finance Shri Pankaj Choudhary besides Finance Ministers of States & UTs (with legislature) and senior officers of the Ministry of Finance & States/ UTs.

The GST Council has inter-alia made the following recommendations relating to changes in GST tax rates, measures for facilitation of trade, and measures for streamlining compliances in GST:

Tax rates:

Sr. No.	Description	From	To
Good			
1.	Husk of pulses including chilka and concentrates including chuni/churi, khanda	5%	Nil
1.	Ethyl alcohol supplied to refineries for blending with motor spirit (petrol)	18%	5%



It was also decided to include supply of Mentha arvensis under reverse charge mechanism as has been done for Mentha Oil.

It was decided to clarify that:

1. Rab (rab-salawat) is classifiable under CTH 1702 which attracts GST at the rate of 18%.
2. fryums manufactured using the process of extrusion is specifically covered under CTH 19059030 and attract GST at the rate of 18%.
3. The higher rate of compensation cess of 22% is applicable to motor vehicle fulfilling all four conditions, namely, it is popularly known as SUV, has engine capacity exceeding 1500 cc, length exceeding 4000 mm and a ground clearance of 170 mm or above
4. goods falling in lower rate category of 5% under schedule I of notification No. 1/2017-CTR imported for petroleum operations will attract lower rate of 5% and the rate of 12% shall be applicable only if the general rate is more than 12%

As a relief measure, the Council decided to regularise the intervening period starting from the date of issuance of Circular (3.08.2022) in respect of GST on 'husk of pulses including chilka and concentrates including chuni/churi, khanda' on "as is basis" on account of genuine doubts.

No GST is payable where the residential dwelling is rented to a registered person if it is rented it in his/her personal capacity for use as his/her own residence and on his own account and not on account of his business.

Incentive paid to banks by Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable

Measures for facilitation of trade

- Decriminalization under GST: The Council has recommended to –
 1. raise the minimum threshold of tax amount for launching prosecution under GST from Rs. One Crore to Rs. Two Crores, except for the offence of issuance of invoices without supply of goods or services or both;
 2. reduce the compounding amount from the present range of 50% to 150% of tax amount to the range of 25% to 100%;
 3. decriminalize certain offences specified under clause (g), (j) and (k) of sub-section (1) of section 132 of CGST Act, 2017, viz.-
 - obstruction or preventing any officer in discharge of his duties;
 - deliberate tempering of material evidence;
 - failure to supply the information.

- **Refund to unregistered persons:** There is no procedure for claim of refund of tax borne by the unregistered buyers in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy, is cancelled and the time period of issuance of credit note by the concerned supplier is over. The Council recommended amendment in CGST Rules, 2017, along with issuance of a circular, to prescribe the procedure for filing application of refund by the unregistered buyers in such cases.
- **Facilitate e-commerce for micro enterprises:** GST Council in its 47th meeting had granted in-principle approval for allowing unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs), subject to certain conditions. The Council approved the amendments in the GST Act and GST Rules, along with issuance of relevant notifications, to enable the same. Further, considering the time required for development of the requisite functionality on the portal as well as for providing sufficient time for preparedness by the ECOs, Council has recommended that the scheme may be implemented w.e.f. 01.10.2023.
- Paras 7, 8(a) and 8(b) were inserted in Schedule III of CGST Act, 2017 with effect from 01.02.2019 to keep certain transactions/ activities, such as supplies of goods from a place outside the taxable territory to another place outside the taxable territory, high sea sales and supply of warehoused goods before their home clearance, outside the purview of GST. In order to remove the doubts and ambiguities regarding taxability of such transactions/ activities during the period 01.07.2017 to 31.01.2019, the Council has recommended to make the said paras effective from 01.07.2017. However, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period 01.07.2017 to 31.01.2019.
- The Council has recommended to amend sub-rule (1) of rule 37 of CGST Rules, 2017 retrospectively with effect from 01.10.2022 to provide for reversal of input tax credit, in terms of second proviso to section 16 of CGST Act, only proportionate to the amount not paid to the supplier vis a vis the value of the supply, including tax payable.
- The Council recommended to insert Rule 37A in CGST Rules, 2017 to prescribe the mechanism for reversal of input tax credit by a registered person in the event of non-payment of tax by the supplier by a specified date and mechanism for re-availment of such credit, if the supplier pays tax subsequently. This would ease the process for complying with the condition for availment of input tax credit under section 16(2)(c) of CGST Act, 2017.
- Sub-rule (3) of rule 108 and rule 109 of the CGST Rules, 2017 to be amended to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority. This would facilitate timely processing of appeals and ease the compliance burden for the appellants.

- Rule 109C and FORM GST APL-01/03 W to be inserted in the CGST Rules, 2017 to provide the facility for withdrawal of an application of appeal up to certain specified stage. This would help in reducing litigations at the level of appellate authorities.
- Circular to be issued to clarify that No Claim Bonus offered by the insurance companies to the insured is an admissible deduction for valuation of insurance services.
- Circular to be issued for clarifying the issue of treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016. Rule 161 of CGST Rules, 2017 and FORM GST DRC-25 also to be amended for facilitating the same.
- Sub-rule (3) of rule 12 of CGST Rules, 2017 to be amended to provide for facility to the registered persons, who are required to collect tax at source under section 52 or deduct tax at source under section 51 of CGST Act, 2017, for cancellation of their registration on their request.
- Circular to be issued for clarifying the issues pertaining to the place of supply of services of transportation of goods in terms of the proviso to sub-section (8) of section 12 of the IGST Act, 2017 and availability of input tax credit to the recipient of such supply. It has also been recommended that proviso to sub-section (8) of section 12 of the IGST Act, 2017 may be omitted.
- Issuance of the following circulars in order to remove ambiguity and legal disputes on various issues, thus benefiting taxpayers at large:
 1. Procedure for verification of input tax credit in cases involving difference in input tax credit availed in FORM GSTR-3B vis a vis that available as per FORM GSTR-2A during FY 2017-18 and 2018-19.
 2. Clarifying the manner of re-determination of demand in terms of sub-section (2) of section 75 of CGST Act, 2017.
 3. Clarification in respect of applicability of e-invoicing with respect to an entity.

Measures for streamlining compliances in GST

- Proposal to conduct a pilot in State of Gujarat for Biometric-based Aadhaar authentication and risk-based physical verification of registration applicants. Amendment in rule 8 and rule 9 of CGST Rules, 2017 to be made to facilitate the same. This will help in tackling the menace of fake and fraudulent registrations.
- Proposal to conduct a pilot in State of Gujarat for Biometric-based Aadhaar authentication and risk-based physical verification of registration applicants. Amendment in rule 8 and rule 9 of CGST Rules, 2017 to be made to facilitate the same. This will help in tackling the menace of fake and fraudulent registrations.
- Section 37, 39, 44 and 52 of CGST Act, 2017 to be amended to restrict filing of returns/ statements to a maximum period of three years from the due date of filing of the relevant return / statement.

- FORM GSTR-1 to be amended to provide for reporting of details of supplies made through ECOs, covered under section 52 and section 9(5) of CGST Act, 2017, by the supplier and reporting by the ECO in respect of supplies made under section 9(5) of CGST Act, 2017.
- Rule 88C and FORM GST DRC-01B to be inserted in CGST Rules, 2017 for intimation to the taxpayer, by the common portal, about the difference between liability reported by the taxpayer in FORM GSTR-1 and in FORM GSTR-3B for a tax period, where such difference exceeds a specified amount and/or percentage, for enabling the taxpayer to either pay the differential liability or explain the difference. Further, clause (d) to be inserted in sub-rule (6) of rule 59 of CGST Rules, 2017 to restrict furnishing of FORM GSTR-1 for a subsequent tax period if the taxpayer has neither deposited the amount specified in the intimation nor has furnished a reply explaining the reasons for the amount remaining unpaid. This would facilitate taxpayers to pay/ explain the reason for the difference in such liabilities reported by them, without intervention of the tax officers.
- Amendment in definition of "non-taxable online recipient" under section 2(16) of IGST Act, 2017 and definition of "Online Information and Database Access or Retrieval Services (OIDAR)" under section 2(17) of IGST Act, 2017 so as to reduce interpretation issues and litigation on taxation of OIDAR Services.

In Nutshell:

The recommendations of the GST Council have been presented by Finance Minister Nirmala Sitharaman which contain major item of decisions for stakeholders. These decisions shall come in effect through the relevant circulars/ notifications/ law amendments. For any further doubt on matters related to GST and GST council meet decision, feel free to contact ASC Group.

Next GST Council may meet in Feb 2023- GST Appellate Tribunals on agenda

Experts also noted that the establishment of the GST Appellate Tribunals agenda is pending for a long, given that the indirect tax regime has now completed 5 years. A number of other cases are also pending in the High Courts.

The GST Council is likely to meet in-person in next year February, after the Union Budget 2023-24 presentation. "The GST Council is expected to meet every quarter and classically once meets after the Union Budget. However, no date has been finalized, but may meet in February next," said a person familiar with the development.



In its 48th GST Council meeting on Saturday, the Council could not take up key matters on its agenda, like the report by the Group of Ministers for establishing the GST Appellate Tribunals, which has left trade and industry disappointed.

Finance minister Nirmala Sitharaman, who chairs the GST Council meeting told reporters that there was a special request by some states to end the council meeting by 1:30 pm as they had some other committed business. Initially, the Council was expected to meet for the entire day.

Also Read - Key highlights on 48th GST Council Meeting

“It was recommended that if any agenda is left discussing, we’ll carry it to the next GST council meeting. This suggestion was put forward to the house and ministers agreed to conclude it at 1:30 and take the remaining agenda forward for the next meeting,” she said. The 48th GST Council Met completed 8 of the 15 agenda points finalized for the council meeting.

“The GST Council was met after a long time but due to lack of time, many of the major decisions could not be considered. The major clarification on tax rates is particularly welcome as there has been a lot of confusion over this. But why does the GST Council need such a long time to decide on GST tribunal formation?” noted the head of an industry body.

Nirmala Sitharaman also said; the government is trying to take up the report of the GST tribunals at soon as possible but the date for the next meeting has not been decided.

Sanjeev Sachdeva, Partner, Luthra, and Luthra Law Offices India said, “It was expected that the GST Council would decide on the formation of the Appellate Tribunals for GST. There is no decision as yet on this, and after over 5 years of introduction of GST there is still no statutory appellate tribunal.”

It is expected that the GST Council in its next meeting will consider the three GoM reports on GST Appellate Tribunals i.e. online gaming, horse racing, and casinos. Also, on capacity-based taxation of gutkha firms and pan masala.

Revenue Secretary Sanjay Malhotra said; other pending matters from the 48th GST Council meeting include issues associated with the GSTN and revenue figures.

If you need any assistance or clarification in regard to GST-related matters, feel free to contact the ASC Group.

50k SCNs issued to Companies and firms post GST Audit

In a momentous move, the GST Department has issued around 50,000 show-cause notices (SCN) to several companies and firms across sectors, including jewelry and real estate, following the findings of a GST audit exercise they started earlier this financial year in the first comprehensive audit exercise since the inception of the GST regime.

It has covered annual GST returns filed by firms in the first 2 years of the tax regime 2017- 18 and 2018-19; in some instances, the GST audit has even covered 2019-20 and 2020-21. In December 2021, Annual GST returns for 2020-21 were filed.



The notices have been served after scrutinizing several documents during the audit under different Sections of the CGST Act, depending on the issue being discovered during the audit, said a government official privy to the development.

The notices served could be for different reasons, including misdeclaration, tax not paid, short-payment, incorrect classification, input-tax credit, goods/services, and export items, mismatch in sale and purchase of items, etc. Issues and causes vary from company to company, officials said.

“Until September, around 20,000 notices had been served to firms where inconsistencies were found. Over 30,000 notices were issued after that. The exercise is ongoing as an audit is done in three months for large businesses; sometimes it goes on for six months if there are complexities. The small businesses audit concludes in a few weeks. Such exercises are significant as they help detect irregularities and fix business issues, and improve returns,” said one of the officials cited.

The Department is learned to accordingly pick them up for having scrutinized about 100,000 auditings. GST registered accounts and there are 14 million registered GST taxpayers.

“We follow certain significant parameters for selecting cases for GST audit. At the beginning of the year, we tried to cater to evasion-prone sectors—gems real estate and jewelry, etc. We also consider inputs given by the Commissionerate of tier-1, tier- 2 cities.” explained a source. A GST audit involves visiting the business premises and inspecting documents, including audited income tax returns, financial statements, filing with the Registrar of Companies (ROC), production records, stock registers, and details of customers and suppliers.

The sources said the assessees have been asked to furnish explanations and reasons for the issues being flagged by the Department in 15-30 days. They will also have to submit certain documents sought by the authorities.

After reviewing the reasons and documents, the Department issues a final audit report with the observation. These observations typically highlight the matter and raise demand. The matter concludes if the assessee goes with the observation and pays the tax liability. In case of disagreement, the matter goes to litigation.

State GST officials, too, started their audit exercise this July amid a revenue deficit as compensation cess by the central government ended on June 30, an industry source said.

Tata Group moves Bombay HC against Rs 1,500-crore GST claim on Docomo deal

Tata Group has approached the Bombay High Court to contest a Rs 1,500-crore GST notice issued by the Directorate General of GST Intelligence (DGGI). The notice is related to Tata's 2017 dispute settlement with Japanese telecom operator NTT Docomo, according to an Economic Times report.

In 2017, Tata had to make settlements worth \$1.27 billion with the Japanese company. This was the result of an international arbitration proceeding at a London court. The arbitration took place after NTT Docomo exercised its right to sell its stake in Tata Teleservices, a Tata Group company, which it acquired in 2009. However, due to disagreements over what's the fair price, the Japanese company had filed for international arbitration.



Following this, the DGGI claimed that Tata's payment counts as 'services rendered' and hence comes under the ambit of GST. This is what the Tata Group is presently contesting in court. "The amount was the dues paid on behalf of Tata Teleservices by Tata Sons and not for any services rendered by Docomo. It is an arbitration case that was paid and closed," a senior official familiar with the development told ET.

The DGGI suspects that other companies would pursue a route similar to Tata's to avoid paying GST levied on services rendered.

"The matter is being pursued by DGGI, and the department is of the view that this route could be taken by other companies to avoid paying GST levied on services rendered and, hence, setting a precedent is a must," the official added.

Changes in the CGST Rules w.r.t. the recommendations of the 48th GST Council Meeting

This a recent notification regarding, "Changes in the CGST Rules w.r.t. the recommendations of the 48th GST Council Meeting" dated 27/12/2022 Official source CBIC.

The CBIC vide Notification No. 26/2022 – (Central Tax) dated December 26, 2022, has issued 'the Central Goods and Services Tax (Fifth Amendment) Rules, 2022' to further amend the Central Goods and Services Tax, Rules, 2017 ("the CGST Rules") to order to align with recommendations of the 48th GST Council Meeting held on December 17, 2022, in the following manner:



In Rule 8 of the CGST Rules:

1. Omitted the requirement of declaring mobile number and e-mail address by the person applying for GST Registration
2. Permanent Account Number ("PAN") is to be verified through separate one-time passwords sent to the mobile number and e-mail address linked to the PAN.
3. Omitted the requirement of verifying the mobile number and e-mail address
4. Amended Rule 8(4A) of the CGST Rules to state that the application for registration shall be deemed to be complete only after the biometric-based Aadhaar authentication and taking photographs of the applicant in case of an individual or of such individuals in relation to the applicant as notified where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the notified Facilitation Centres.
5. New Rule 8(4B) of the CGST Rules has been inserted to prescribe that the government may specify the States or Union territories wherein the provisions of sub-rule (4A) shall not apply.

In Rule 9 of the CGST Rules:

A new proviso to Rule 9(1)(aa) and Rule 9(2)(aa) of the CGST Rules has been inserted w.r.t. granting of the registration, to state that, the registration shall be granted within thirty days of submission of the application to a person, who has undergone authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business.

In Rule 12 of the CGST Rules:

Amended Rule 12(3) of the CGST Rules, to state that the proper officer may cancel the registration on a request made in writing by a person to whom a registration has been granted.

In Rule 37 of the CGST Rules:

1. Amended Rule 37(1) of the CGST Rules, w.e.f. October 1, 2022, to state that a registered person, who fails to pay to the supplier, the amount towards the value of such supply whether wholly or partly along with the tax payable thereon, within the time limit, shall pay or reverse an amount equal to the Input Tax Credit ("ITC") availed in respect of such supply proportionate to the amount not paid to the supplier along with interest.
2. New Rule 37A of the CGST rules has been introduced w.r.t. reversal of ITC in case of non-payment of tax by the supplier and re-availment thereof.

In Rule 46 of the CGST Rules:

1. A new proviso to Rule 46(f) has been inserted to provide that a tax invoice issued by the registered person shall contain the name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient, in case where any taxable service is supplied by or through an Electronic Commerce Operator ("ECO") or by a supplier of Online Information And Database Access Or Retrieval ("OIDAR") services to a recipient who is unregistered, irrespective of the value of such supply.
2. A new provision to Rule 46A has been inserted to provide that, the invoice-cum-bill of supply shall contain the particulars as specified under Rule 46 or Rule 54 and Rule 49 of the CGST Rules.

In Rule 59 of the CGST Rules:

New Rule 59(6)(d) has been inserted to prescribe that a registered person, to whom an intimation has been issued on the common portal in respect of a tax period, shall not be allowed to furnish the details of outward supplies of goods or services or both under Section 37 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid.

In Rule 87 of the CGST Rules:

A new proviso to Rule 87(8) of the CGST Rules has been inserted to provide that where the bank fails to communicate details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.

In Rule 88 of the CGST Rules:

New Rule 88C of the CGST Rules has been introduced to prescribe the manner of dealing with differences in liability reported in statements of outward supplies and that reported in return.

In Rule 89 of the CGST Rules:

1. Introduced Rule 89(2)(ka) in the CGST Rules, to prescribe that the refund application shall be accompanied by a statement containing the details of invoices, in respect of which refund is being claimed along with a copy of such invoices, proof of making such payment to the supplier, the copy of the agreement or registered agreement or contract, as applicable, entered with the supplier for the supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for the supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in a case where the refund is claimed by an unregistered person where the agreement or contract for the supply of service has been canceled or terminated.
2. Introduced Rule 89(2)(kb) in the CGST Rules, to prescribe that the refund application shall be accompanied by a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which the refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim a refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for the supply of service has been canceled or terminated.
3. Inserted new provision to Rule 89(2)(m) to provide that a certificate is not required to be furnished in cases where a refund is claimed by an unregistered person who has borne the incidence of tax.

In Rule 108(3) of the CGST Rules:

1. Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating the appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorized by him on this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of the appeal.
2. Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority and the date of issue of the provisional acknowledgment shall be considered as the date of filing of the appeal.
3. Provided further that where the self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of the appeal.

In Rule 109 of the CGST Rules:

1. Rule 109 of the CGST Rules has been amended w.r.t. provisional and final acknowledgment issued to the appellant on application to the Appellate Authority.
2. New Rule 109C of the CGST Rules has been introduced w.r.t. withdrawal of the appeal.

In Rule 138 of the CGST Rules:

Amended Rule 138(14) of the CGST Rules, to prescribe that no e-way bill is required to be generated in the case of jewelry, goldsmiths' and silversmiths' wares, and other articles (Chapter 71) except imitation jewelry (7117).

In Rule 161 of the CGST Rules:

Amended Rule 161 of the CGST Rules to prescribe that the intimation or notice for the reduction or enhancement of any demand under Section 84 of the CGST Act shall be issued in FORM GST DRC- 25.

Amendments in Forms

1. Amended PART A of FORM GST REG-01 to state that E-mail id and mobile number shall be auto-populated from the Income Tax database as linked with the Permanent Account Number of the applicant.
2. Omitted the instruction in FORM GST REG-01 w.r.t. Providing E-mail Id and Mobile Number of authorized signatories for verification and future communication.
3. Amended FORM GST REG-17 w.r.t. supportive document(s) attached for case-specific details to be provided in the case ex parte decision in case of no reply to the Show Cause Notice ("SCN") for cancellation of registration.
4. Amended FORM GST REG-19 w.r.t. order for cancellation of registration.
5. Amended FORM GSTR-1 w.r.t. details of outward supplies of goods or services by the supplies made through e-commerce operators.
6. Amended FORM GST RFD-01 so as to allow the refund for unregistered persons.

New Forms

1. New FORM GST APL-01/03W has been inserted w.r.t. the application for withdrawal of appeal application.
2. New FORM GST DRC-01B has been inserted w.r.t. intimation of difference in liability reported in the statement of outward supplies and that reported in return.

Amendments

Substituted FORM GST DRC-03 w.r.t. Intimation of payment made voluntarily or made against the SCN or statement or intimation of tax ascertained through FORM GST DRC-01A.

Telangana High Court Judgement on GST registration cancellation

This is a recent ruling regarding, the matter of M/s S.B. Traders. v. The Superintendent [W.P. Nos. 39498 & 39502 of 2022 dated October 28, 2022] dated 28.12.2022 wherein it was held that GST registration could not be cancelled on the basis of the direction of Head Office without assigning any

Facts of the Case

In the instant case, a show because the notice was issued to the petitioner as to why registration should not be cancelled and it was mentioned that registration was obtained by means of fraud, wilful misstatement or suppression of facts. The petitioner filed a reply to show cause notice and on the same day, the order was passed cancelling GST registration on the ground that the same has been cancelled as per directions of Head Office. The petitioner filed a writ petition against the cancellation order.

High Court Held

The Honourable High Court observed that particulars of any fraud, wilful misstatement or suppression of facts had not been mentioned in the notice and there was the absence of any reason to issue show cause notice for cancellation of registration. Moreover, suspending registration on the basis of the direction of the Head Office could not be a reason for the cancellation of GST registration. Thus, the Court held that notice issued and order passed would exhibit complete non-application of mind and therefore, the order cancelling registration was liable to be set aside.



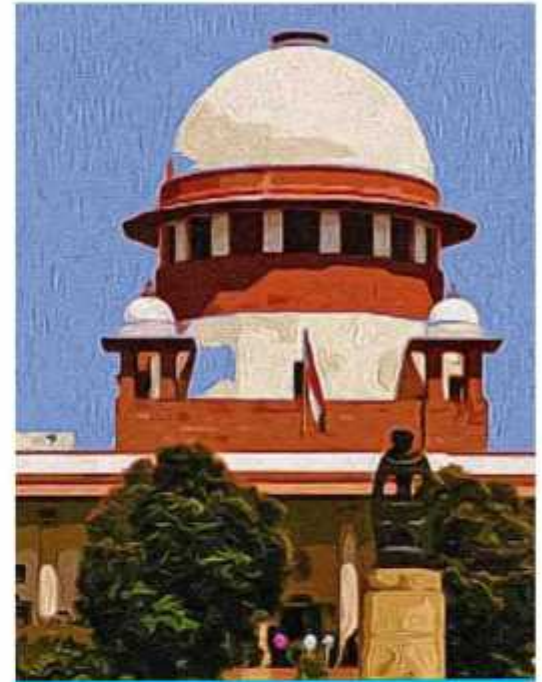
CBIC letter on Supreme Court ruling in Mohit Minerals case

The Central Board of Indirect Taxes and Customs Legal Cell has issued Letter vide F. No. 275/11/2022-CX.8A dated November 04, 2022 informed that the Board has decided that the GST department will not challenge the Supreme Court decision in Mohit Minerals case.

SC ruling on Mohit Minerals case

The ruling pronounced by the Supreme Court on May 19, 2022, asserted a landmark judgment on IGST on Ocean Freight. The Supreme Court's verdict affirms the Gujarat High Court's Order on January 23, 2020, which stated that there would be no separate IGST on transportation costs (i.e., freight), which forms a part of the customs valuation of goods when imported on a CIF (Cost, Insurance and Freight) basis.

In the aforementioned case, till date government was exploring all options to challenge the SC judgment regarding the imposition of IGST on ocean freight, including the filing of a review petition with no intention to grant a refund to taxpayers. However, now this has been sorted and Board has decided not to file a Review Petition in the subject matter.



Online gaming, Casino & Horse Racing to attract 28% GST on full bet value

Central Board of Indirect Taxes Chief Vivek Johri said on Saturday that online games where winning depends on a certain outcome would attract 28 % GST on the full bet value.

Though the report of the Group of Ministers on online gaming did not come up for discussion at the GST Council meeting, the department would go by the view that 28 % GST is payable on full bet value put in by a player, and not net of margins.

According to sources, although the report submitted by the GoM on online Gaming, Racecourses, and Casinos is of divergent nature, the Government's opinion is clear on this matter.



The comments undertake significance as the GTPL (Gameskraft Technology Pvt Ltd) GST evasion case is still pending in the court.

Directorate General of GST Intelligence (DGGI) issued a show cause notice to Bengaluru-based online gaming company GTPL in September, for not paying GST to the tune of Rs 21,000 crore.

According to the CBIC, Gambling and lottery cannot be distinguished. Casinos, online gaming, and race courses all have a common thread of gambling, which is categorized as part of the lottery for GST purposes.

"The gaming activity is considered as gambling because the winning is dependent on a certain outcome," Johri said.

The report of the GoM could not come up for GST Council discussions since it came in just 2 days ahead of the meeting and thus could not be circulated to the states. Generally, the GST Council secretariat gives notice to GST Council members before tabling any agenda.

The GoM, in its last meeting held in November, had agreed on a 28 % GST rate on online gaming, horse racing, and casinos

However, in absence of consensus on whether the tax should be levied on only the fees charged by the portal or the entire consideration, including the bet amount, received from participants, the GoM had decided to refer all suggestions to the GST Council for a final decision.

After Briefing the reporters at the 48th GST Council meeting on Saturday, Finance Minister Nirmala Sitharaman said the GoM report would be "discussed threadbare" when the Council takes it up for discussion.



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