



# GST TIMES

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 Compiled by: GST Team, ASC Group

## Solving any tax puzzle

Tax saving advice across all the taxes





## Compliance Calendar

S. No.	Due Date	Forms	Period	Description
1.	10 <sup>th</sup> September 2020	GSTR-7	August 2020	Return for Tax Deducted at source to be filed by Tax Deductor
2.	10 <sup>th</sup> September 2020	GSTR-8	August 2020	E-Commerce operator registered under GST liable to TCS
3.	11 <sup>th</sup> September 2020	GSTR-1	August 2020	Taxpayers having an aggregate turnover of more than INR 1.50 crores or opted to file monthly return
4.	13 <sup>th</sup> September 2020	GSTR-6	August 2020	Every Input Service Distributor (ISD)
5.	20 <sup>th</sup> September 2020	GSTR-5 & 5A	August 2020	Non-resident ODIAR services provider file Monthly GST Return
6.	1 <sup>st</sup> October 2020	GSTR-3B	August 2020	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of: <b>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</b>
7.	3 <sup>rd</sup> October 2020	GSTR-3B	August 2020	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of: <b>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</b>
8.	20 <sup>th</sup> September 2020	GSTR-3B	August 2020	Taxpayers having an aggregate turnover of more INR 5 crore or more



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# GOODS AND SERVICES TAX (GST)

## Aadhaar Authentication is Mandatory

CBIC vide Notification No. 62/ 2020 – Central Tax dated 20<sup>th</sup> August, 2020 has amended Sub Rule 4A of Rule 8 of CGST Rules, 2017. Now, at the time of filing for GST registration taxpayer can opt for aadhaar authentication and he has to undergo authentication of aadhaar verification. In such case date of submission of GST registration application will be the date when aadhaar authentication has been done. In this scenario if officer fails to take any action within 3 working days from the date of submission of application then GST registration application will be deemed approved.



If a taxpayer does not opt for aadhaar authentication then GST registration will be granted only after physical verification of office premises. In this scenario if officer fails to take any action within 21 working days from the date of submission of application then GST registration application will be deemed approved.

Source: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-62-central-tax-english-2020.pdf>

## Interest on Late GST Payment to be levied on Net Tax Liability

CBIC vide Notification No. 63/2020 – Central Tax dated 25<sup>th</sup> August, 2020 has notified that interest on late payment of GST liability will be payable on net cash



liability basis i.e. after deduction of available input tax

credit from gross tax liability. This notification is **applicable from 1<sup>st</sup> September, 2020**.

In the said notification section 100 of the Finance (No. 2) Act, 2019 (23 of 2019) shall come into force and Section 100 of the Finance (No. 2) Act, 2019 says that:

*In section 50 of the Central Goods and Services Tax Act, in sub-section (1), the following proviso shall be inserted, namely:—*

*“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except*



*where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”*

Earlier, in 39<sup>th</sup> GST Council Meeting it was declared that interest on late payment of GST liability which would be applicable on net cash liability basis will be applicable from retrospective effect i.e. from 1<sup>st</sup> July, 2017.

Source: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-63-central-tax-english-2020.pdf>

However, as per the recent notification it is applicable from 1<sup>st</sup> September, 2020.

Further, CBIC has assured that no recovery shall be made for past period in accordance with the decision taken in the 39<sup>th</sup> Meeting of GST Council.

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## Guidelines for Conducting Personal Hearing through Virtual

The Central Board of Indirect Taxes and Customs (CBIC) vide Instruction No. 390/Misc/3/2019 – JC dated August 21, 2020 issued the revised guidelines for conducting the personal hearing by virtual mode under CGST Act, 2017, IGST Act, 2017, Customs Act, 1962, Central Excise Act, 1944 and Chapter V of Finance Act, 1994.

The Board has now decided to make it mandatory for various authorities, such as Commissioner (Appeals), original adjudicating authorities and Compounding Authority to conduct personal hearing in respect of any proceeding under the Customs Act 1962, Central Excise Act, 1944 and Chapter V of Finance Act, 1994 through video conferencing facility. This facility shall also be extended to proceedings under the CGST Act, 2017 and the IGST Act, 2017.

The Board issued guidelines to conduct such virtual hearing are being provided so that ongoing work of appeals and adjudications are completed expeditiously for quick delivery of justice through quasi-judicial proceedings. These guidelines are in compliance of the directions given by Hon'ble Supreme Court under Article 142 of the Constitution of India in Suo Moto Writ (Civil) No. 5/2020. The guidelines for the conduct of virtual mode of personal hearing through video conferencing facility are as under:

- In any proceedings before the appellate or adjudicating authority, the authority shall mandatorily indicate that the personal hearing

would take place through a video conferencing facility. For this purpose, he/she shall also indicate the email address for correspondence etc.

- The date and time of hearing along with the link for the video conference shall be informed to the appellant/ respondent or their authorized representative and the concerned Commissioner representing revenue through the official email, giving the details of officer-in-charge who would provide assistance to the party, for conducting the virtual hearing. This link should not be shared with any other person without the approval of the adjudicating/appellate authority.
- The assessee or authorized representative appearing in the virtual hearing should file his vakalatnama or authorization letter along with a copy of his photo ID card and contact details to the adjudicating/appellate authority through official e-mail address of the concerned authority after scanning the same.
- All persons participating in the video conference should be appropriately dressed and maintain the decorum required for such an occasion.
- Virtual hearing through video conference shall be held from the office of adjudicating/appellate



authority or any official video conference facility set up in the office of the adjudicating/appellate authority.

- The virtual hearing through video conference will be conducted through available applications like VIDYO, or another secured computer network. The assessee should download such application in their computer system/laptop/mobile phone beforehand for ready connectivity during the virtual hearing, and join the video conference at the time allotted to them
- In the case where the appellant/ respondent wishes to participate in the virtual hearing proceeding along with their advocate, they should do so under proper intimation to the adjudicating/ appellate authority. They may participate in virtual hearing along with their advocate/ authorized representative or join the proceedings from their own office.
- The submissions made by the appellant or their representative through the video conference will be reduced in writing and a statement of the same will be prepared, which shall be known as "record of personal hearing". A soft copy of such a record of the personal hearing in PDF format will be sent to the appellant through the email ID provided by the appellant/respondent/authorized representative, within one day of such hearing.
- If the assessee or their representative wants to modify the contents of the e-mailed record of personal hearing, they can do so and sign the modified record, scan and send back the signed record of personal hearing to the adjudicating/appellate authority within 3 days of receipt of such e-mail or else it will be presumed

that they agree with the contents of e-mailed record of personal hearing. No modification in the e-mailed record of the personal hearing will be entertained after 3 days of its receipt by appellant/their authorized representative. The date of receipt of the email by the appellate/adjudicating authority will not be counted for this purpose.

- The record of personal hearing submitted in this manner shall be deemed to be a document for the purpose of the relevant statute read with Section 4 of the Information Technology Act, 2000.
- If the assessee or their authorized representative prefers to submit any document including additional submissions during the virtual hearing, he may do so by self-attesting such document and a scanned copy of the same may be emailed to the adjudicating/appellate authority immediately after virtual hearing and in no case after 3 days of virtual hearing. The date of the hearing will be excluded for this purpose.
- Any official representing the Department's side can also participate in the virtual hearing through video conferencing. The Commissionerate concerned shall inform the details in advance regarding such participation, on receipt of intimation as mentioned at point (ii) above.

While the conduct of personal hearing through video conferencing is being made mandatory, there may yet be rare and accentuating circumstances on the part of the assessee or his authorized representative on account of which this cannot be done. Each such request shall be approved by the adjudicating/appellate authority and the reasons for the same recorded in writing.

Source: <https://www.ascgroup.in/wp-content/uploads/2020/06/cbic-mandates-conduct-of-virtual-hearing-under-customs-excise-st-gst.pdf>

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## Table 8A of GSTR-9 can be Downloaded in Detailed from GST portal

1. A facility has been provided to the taxpayers to download document wise details of Table 8A of Form GSTR-9, from the portal in excel format. This can be done by using a new option of 'Document wise Details of Table 8A' given on the GSTR-9 dashboard, from Financial Year 2018-19 onwards. This will help the taxpayer in reconciling the values appearing in Table 8A of Form GSTR 9, thus facilitate filling the Form GSTR-9.
2. Table 8A of Form GSTR 9 is populated on basis of documents in filed Form GSTR-1 or Form GSTR-5 of the supplier. Thus, all documents which are present in GSTR-2A (Table 3 & 5), will not be available here, as documents which are in uploaded or submitted stage in Form GSTR 1 or 5, are not accounted for credit in table 8A of Form GSTR 9.
3. **This excel download will address issues like:**
  - Figures of Input Tax Credit (ITC), as pre-populated in table 8A of GSTR-9, not matching with the figures, as appearing in their Form GSTR-2A;
  - To view details of documents that are auto-populated from GSTR-2A, to table 8A of Form GSTR-9
4. **Steps to Download:**

To download, navigate to Services > Returns > Annual Return > Form GSTR-9 (PREPARE ONLINE) > DOWNLOAD TABLE 8A DOCUMENT DETAILS option.
5. **Downloaded excel file will contain:**
  - GSTIN, Trade Name or Legal Name of the supplier
  - The period (month) in which the document featured in GSTR-2A of the recipient
  - Document wise details of B2B (invoices), B2BA (amended invoices), CDNR (credit and debit notes) and CDNRA (credit and debit notes amended), filed by supplier in their Form GSTR-1/GSTR-5, in separate Excel sheets
  - Details from only Form GSTR-1/GSTR-5, which are filed till 31st October of subsequent year
  - In case of amendments, only latest value will be accounted for
  - Field showing "ITC available for Table 8A" – "Yes" or "No"
  - If ITC is not available, a column named 'Reason for Non-accounting' with reasons for non-accounting in Table 8A
6. **Some other Important Points:**
  - Excel download option will be available once GSTR-9 tab for filing is enabled
  - Generated excel will be downloaded as a zip file, if number of documents are less
  - Generated excel can be downloaded in multiple parts, if number of documents are large
  - Data saved/submitted in Form GSTR-1/5 will be shown in Form GSTR-2A, but will not be shown in downloaded excel file of Table 8A of Form GSTR-9

Source: <https://www.gst.gov.in/newsandupdates/read/393>

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# ITC Statement Form GSTR-2B, made available on GST Portal for Taxpayers

1. GSTR-2B is an **auto-drafted Input Tax Credit (ITC) statement** generated for every recipient, on the basis of the information furnished by their suppliers, in their respective Form GSTR-1 & 5 and Form GSTR-6 filed by ISD.
  - The details filed in GSTR-1 & 5 (by supplier) & GSTR-6 (by ISD) would reflect in the next open GSTR-2B of the recipient irrespective of supplier's/ISD's date of filing. For e.g, if a supplier files a document INV-1 dt. 15.07.2020 on 11th August, it will get reflected in GSTR-2B of July (generated on 12th August). If the document is filed on 12th August, 2020 the document will be reflected in GSTR-2B of August (generated on 12th September).
2. Taxpayers can now **reconcile data** generated in Form GSTR-2B, with their own records and books of accounts. Using this reconciliation, they can now file their Form GSTR 3B and they can ensure that
  - No credit is taken twice,
  - Credit is reversed as per law, &
  - Tax on reverse charge basis is paid.
3. Generated Form GSTR-2B consists of:
  - A summary of ITC available as on the date of its generation and is divided into credit that can be availed and credit that is to be reversed (Table 3)
  - A summary of ITC not available and is divided into ITC not available and ITC reversal (Table 4)
4. It is a **static** statement, generated **once** on 12<sup>th</sup> of **following** month.
  - It consists of all documents filed by suppliers/ISD in their Form GSTR-1, 5 & 6, between 00:00 hours on 12<sup>th</sup> day of preceding month to 23:59 hours, on 11<sup>th</sup> day of current month. Thus, statement generated on 12<sup>th</sup> of August will contain data from 00:00 hours of 12<sup>th</sup> July to 23:59 hours of 11<sup>th</sup>
5. It also contains information on imports of goods from the ICEGATE system including data on imports from Special Economic Zones Units / Developers. (This will be made available in GSTR-2B from 12th September 2020 onwards). Reverse charge credit on import of services is not part of this statement and need to be entered by taxpayers in Table 4(A) (2) of FORM GSTR-3B.
6. **Steps to Download:** Taxpayers can access their GSTR-2B through: **Login to GST Portal > Returns Dashboard > Select Return period > GSTR-2B.**
7. **Important features:** Taxpayers can
  - View or download Summary Statement or Section wise details in excel or PDF format.
  - Taxpayers can view supplier wise summary or document wise details.
  - Email / SMS to taxpayer will be sent informing them about generation of GSTR-2B.







## GSTN has enabled the Option of Bunching of Refund Claim

GSTN portal in reference to Circular No. 135/05/2020 – GST dated 31<sup>st</sup> March, 2020 has enable the option to file refund application for different Financial Year in a single refund application.

Please select Tax period for which the application is to be filed:

Tax Period

ⓘ Please select period starting from registration date or post registration date in period dropdown.

From Period: To Period:

Refund application in GST RFD-01 can be filed for periods relating to different Financial Years in a single refund application

This facility of GSTN portal will help a large number of taxpayer especially merchant exporters as earlier merchant exporters were not able to claim refund as they have received the supplies of goods in the last quarter of a Financial Year and have made exports in the

next Financial Year i.e. from April onwards. The restriction imposed vide para 8 of the master refund circular 125/44/2019-GST dated 18.11.2019 prohibits the refund of ITC accrued in such cases.

Source: GSTN Portal

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## New Functionality in Form GSTR-2A w.r.t Import Data

Two new tables have been inserted in GSTR-2A for displaying details of import of goods from overseas and inward supplies made from SEZ units / SEZ developers. Taxpayers can now view their bill of entries data which is received by the GST System (GSTN) from ICEGATE System (Customs). The present data upload has been done on a trial basis to give a feel of the functionality and to get feedback from the taxpayers on the same.

Currently, the system is displaying data up to 6<sup>th</sup> August, 2020. Further, taxpayers may note that system is

currently does not contain import information for bill of entries filed at non-computerized ports (non-EDI ports) and imports made through courier services/post office. This will be made available shortly.

It may also be noted that amendment information made in the details of bill of entries will also be provided soon.

Taxpayers are requested that they share their feedback through raising a ticket on the self-service portal



Source: <https://pib.gov.in/PressReleasePage.aspx?PRID=1649521>

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## Court Decisions

### **HC Gujarat - Bharat Oman Refineries Ltd VS Union of India: Refund of IGST paid on Ocean Freight**

**Brief:** Challenge to levy of tax on the Ocean freight for the services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the customs stations of clearance in India and the levy of collection of tax of such Ocean freight under the Notification No.10/2017-IGST dated 28th June 2017

**Held:** The Notification No.10/2017-IGST dated 28th June 2017 was a subject matter of challenge in a batch of writ applications - This Court in Mohit Minerals and allied petitions declared the Notification No.8/2017-Integrated Tax (Rate) dated 28th June 2017 and the Entry No.10 of the Notification No.10/2017-Integrated Tax dated 28th June 2017 as ultra vires the IGST Act, 2017 on the ground that the same lacked legislative competency. Both the Notifications referred to above were declared to be unconstitutional.

The respondents are directed to sanction the refund and pay the requisite amount of IGST already paid by the writ applicant pursuant to the Entry No.10 of Notification No.10/2017-IGST dated 28th June 2017 having been declared ultra vires

The writ application is allowed

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### **HC Gujarat - Namaskar Enterprise VS Commissioner of GST: Provisional attachment of Bank Account is valid for one year**

**Brief:** Petition seeking direction to quash the notice of provisional attachment of petitioner's Bank account under section 83 of CGST Act 2017.

**Held:** A perusal of Sub-Section 2 of Section 83 makes it abundantly clear that the provisional attachment would cease to have effect after the expiry of a period of one year from the date of the order made under sub-Section 1 - having regard to the statement made by the learned counsel that the attachment came into force from 2-8-2019, the order of provisional attachment has come to an end. In such circumstances, the State Bank of India to take notice of this order and permit the writ applicant to operate his Bank Account forthwith.

The writ application is allowed

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## HC Punjab & Haryana - Ranjit Singh VS State of Haryana: Bail without payment of Liability and Interest

**Brief:** Bail - Arrest for bogus and fictitious transactions - challenge to onerous bail conditions of payment of entire outstanding liability along with interest.



**Held:** Reading of Section 132 shows that imprisonment is provided for a period ranging from 6 months upto 3 years wherein a lesser offence is committed, directly correlated with the quantum of financial implications. Section 132(5) further provides that for the cases where the input tax wrongfully filed exceeds Rs.500 lakhs only, the offence is to be cognizable and non-bailable - there are sufficient remedies available to the State to recover the amount by other modes also and to protect the interest of revenue. By putting conditional order of directing the petitioner to pay entire outstanding liability would amount to recovery of the amount - since the maximum punishment which can be awarded is upto 5 years and the petitioner has almost undergone a period of one year, the onerous conditions would thus violate Article 21 of the Constitution of India as the liberty of the petitioner is being deprived. It is settled principle that bail is the rule and jail is the exception and mere seriousness of the charge is not a factor to be taken into account while denying the valuable right of liberty - The factum of the investigation being complete and enquiry having been completed and the relevant documents being in possession of the prosecution, the petitioner thus cannot be detained during the trial only on account of the fact that a bail order in the form of a recovery proceedings has been passed against him to pay the outstanding worth almost Rs.2 crores along with interest

The condition of payment of entire outstanding liability along with interest is set aside - the petition is allowed

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