



ICAI-GST

35th Edition

NEWSLETTER
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A Newsletter from The Institute of Chartered Accountants of India on GST



**Input Tax
Credit under
GST - The Way
Forward**

**Medley
About
Intermediary**



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President's Communication



Dear Professional Colleagues,

“GST is the first of its kind system in the country when both Centre and State shall be putting consolidated efforts in the same direction. We shall be proud of this wonderful system for generations to come as GST is a landmark achievement which is bound to take the nation towards exponential growth.”

- Hon'ble Prime Minister, *Shri Narendra Modi*

As I pen this message, GST is going to turn six in a couple of months. The reform which took more than a decade of mutual co-operation, continuous discussions, and intense debate between Central and State Governments about implementation methodology, was finally implemented with effect from 1st July 2017. During the last six years, GST collections have grown by leaps and bounds. The gross GST revenue collected in the month of April 2023 is Rs. 1.87 lakh crore which is the highest ever monthly collection since the implementation of GST system in India. The robust GST revenue collection is a sign of strong and resilient Indian economy. Further, with systematic digitalisation of the entire GST ecosystem, the GST regime is paving the way to a digital economy.

The GST & Indirect Taxes Committee has been working relentlessly in furtherance of its objectives of supporting the Government in GST policy making and implementation as also in GST knowledge sharing and upskilling the members in GST. The Committee has been proactively organising Certificate Course on GST, webinars, seminars, conferences etc. to help members upgrade their knowledge in GST and skills. Recently, the Committee has revised its publication on “GST Act(s) and Rule(s) – Bare Law” with the latest position of law. The publication would be of immense use to the members and professionals working in the area of GST.

I am happy to present to you the 35th edition of the GST Newsletter hoping that you will find it useful in fulfilling your professional endeavours. I urge all of you to continue your journey of learning as that is how you can serve the society at large and take our profession to much greater heights.

Extending my best wishes to all the readers!

CA. Aniket S. Talati

President

The Institute of Chartered Accountants of India

Chairman's Communication



Dear Members,

Warm Greetings!

I along with Vice-Chairman, GST & Indirect Taxes Committee, CA. Umesh Sharma, would like to present to you the 35th Edition of the ICAI GST Newsletter which encapsulates the recent developments in GST as also the various initiatives taken by the Committee towards GST knowledge sharing.

The Finance Act, 2023 which came into force on 31st March, 2023 has paved the way of setting up of much awaited GST Tribunals so as to reduce the burden on High Courts and Supreme Courts and provide relief to the taxpayers. The CBIC has also issued many notifications to provide relaxations in payment of late fee on delayed filing of various returns. I urge my colleagues to take note of such amendments and help the taxpayers in availing the benefit of the same. All such notifications and other significant developments in GST have been compiled and presented in this edition of the Newsletter for the benefit of the readers.

I am pleased to share with you that the Committee has released the revised edition of its publication “GST Act(s) and Rule(s) – Bare Law” at a very reasonable price for the benefit of all the stakeholders. The publication is updated upto the Finance Act, 2023. With the Covid scare finally ebbing away, the Committee is now focussing on organising physical batches of Certificate Course on GST and CPE programmes to upgrade the skills of the members in a safe environment. Since the onset of this Council year, the Committee has organised physical batches of Certificate Course at Amravati and Vishakhapatnam and while I write this message, batches are running at Bhubaneswar and Mumbai. I request my colleagues to register for the Certificate Course on GST as it is an excellent mode of upgrading one's knowledge and skills in GST.

Before signing off, I would like to assure you all that we will continue to work towards the objectives of the Committee.

Extending my best wishes to all the readers!

CA. Sushil Kumar Goyal

Chairman

GST & Indirect Taxes Committee

The Institute of Chartered Accountants of India

MEDLEY ABOUT 'INTERMEDIARY' STILL UNRESOLVED

Introduction

Cross-border transactions involving 'intermediaries' have two issues, one, about classification of contractual arrangements (of different kinds) within its fold and two, about the justification to deny zero-rated benefits due to its place of supply being in the taxable territory. Recent decisions raised hopes of resolution of both these issues, with Delhi High Court taking up the first issue in "**EAYL v. ADC**" in WP(C) 8600/2022 and Mumbai High Court taking up the second in "**DMJ v. UoI**" & Ors. in WP 2031/2018 in reference from Division Bench where the two Id. Judges could not reach consensus even after considering an earlier decision of Gujarat High Court in "**MRAI v. UoI**" in CA 13238/2018.

When decisions are over a hundred pages, it raises expectations that the legal complexity will be shredded to bits and trade will be able to move on with clarity, with at least one of the litigants thrilled with the outcome. Para 103 in DMJ v. UoI exposes the real extent of complexity that remains "It is not possible to foresee and visualize such provision becoming relevant in case of a particular transaction which may purely fall under the IGST Act."

Agent and intermediary

Agent is one who brings about binding relations between the Principal and a Third-Party. Agency is by appointment and not by contract. As such, agency can be valid without consideration. Agents, perfectly so, are those who are represent to Third-Parties and bind Principal to obligations that no one but the Principal is to perform. By implication, there are (imperfect) agents who only make introductions or advertise or collect dues and keep books.

Agency demands the existence of three contractual relations, namely:

- a) Agent and Principal;
- b) Agent and Third-Party; and
- c) Principal and Third-Party.

Selling agency requires Principal to sell goods to Third-Party. Buying agency requires Principal to purchase from and pay for goods supplied by Third-Party. So, identity of 'Principal' and 'Third Party' depends on person who appoints Agent. So, the test seems to be to locate the 'number of actors' involved. Agency demands three (3) actors to be 'engaged' and not merely operating in the side-lines and where there are these many actors and the transaction is cross-border, then it is an intermediary-agency.

Present controversy

Under GST, agents are either (i) given the treatment in para 3, schedule I or (ii) the place of supply of their services is deemed to be within India vide section 13(8)(b) of IGST Act. It is this latter treatment of agency that lies at the heart of present deliberation, when an Agent in India is engaged by a Principal who is located outside India. Clarity offered in following circulars of CBIC bears the Government's interpretation of the law:

- a) Circular 107/26/2019-GST dated 18 Jul 2019 (withdrawn citing "apprehensions on the implications" by trade vide Circular 127/46/2019-GST dated 4 Dec 2019); and
- b) Circular 159/15/2021-GST dated 20 Sept 2021.

Para 78 of the Id. referee Judge's order in DMJ v. UoI bears out the present controversy succinctly as "In short the issue is that Petitioner is aggrieved that his supply of intermediary services as intermediary to his overseas customers, which according to him is export of service by virtue of section 13(8)(b) of the IGST Act read with section 8(2) of the said Act is being treated as an intra-State supply making him liable to pay CGST and MGST, which he submits cannot be permitted. Petitioner is therefore challenging Section 13(8)(b) read with section 8(2) of the IGST Act as being ultra vires Articles 14, 19(1)(g), 245, 246A, 269A and 286 of the Constitution of India as well as the IGST Act and section 9 of the CGST and MGST Act."

Classification when Third-Party missing

Beneficiary of Agent's service may not always be the Third-Party who enters into binding obligations with Principal and any payer of commission does not always point to Principal because Agent may be appointed by Principal with directions to collect commission from Third-Party or any other Beneficiary. Non-standard nature of legal relations in each case defies the adoption of a uniform interpretation and hence, application of tax treatment, to transactions involving agency.

Imperfect agencies involving canvassing agents and false agencies involving private investigation or recruitment, add to the confusion as to who is an 'intermediary-agent' and what are the tests for its determination. In EYAL v. ADC, it was held that the Petitioner is entitled to refund of accumulated credit and the Delhi High Court rejected Revenue's position that services delivered by Indian Branch of a UK Company to the UK Company acting as the Customer-Recipient, does not amount to 'intermediary' services by examining the nature of services performed

but without illuminating readers about the *raison d'être* that could have been valuable authority. While directing Revenue to “process the petitioner’s refund application as expeditiously as possible” (para 35), clause (v) in the definition in section 2(6) of IGST Act seems to have been overlooked and thus, it seems possible that the refund may be rejected yet again in the second round because the Petitioner is admitted (para 1 and 4) to be ‘branch office’ of the UK Company and not an independent legal entity.

Extra-territoriality of our laws

Our laws cannot operate outside the territory of India. That is the essence of article 245 of the Constitution. But if a certain actor engages in a certain transaction located outside India, our laws will still be able to apply to those transactions if there is a “real connection to India which should not be illusory or fanciful” as quoted (para 53) in *DMJ v. UoI* from an earlier authority of Apex Court in *GVK Industries Ltd.*

Intermediary operating in India exports services to a consumer located outside India. This consumer who consumes those services in its own business activities and pays for the services is designated to be the Recipient of supply in terms of definition in section 2(93) of CGST Act. That the services are ‘consumed’ outside India is the pith of the argument to assail extra-territoriality in operation of IGST Act. This argument draws support from location of Recipient being assumed to be ‘destination of consumption’ of services. Whether that much is sufficient to displace a statute or not came for consideration before the Id. dissenting Judge (para 102 and 103) and the Id. referee Judge (para 57 and 58) who held that Parliament’s exclusive privilege to ‘dictate’ the principles for determination of inter-State (and by implication intra-State) character of supplies was held to be well-founded in article 269A(5) which was the very power referred to in article 286(2) (post-amendment).

Apex Court had earlier observed in *All India Federation of Tax Practitioner v. UoI* AIR 2007 SC 2990 that “service tax is a VAT on services” (para 20 cited at para 21.5) in an attempt to import concepts of VAT – destination-based consumption tax – into service tax (which was the subject of dispute in that case). If those concepts are applicable in GST, then it would be fair to assume location of Recipient would be ‘destination of consumption’, but the question is whether these concepts are applicable to GST and this question was addressed in the Id. dissenting Judge’s words in *DMJ v. UoI* (starting at para 67 through para 120).

It is interesting that certain reports in public domain were put forward to support certain extra legislative concepts that must be ‘read into’ the statute inspired largely by the approach in *All India Federation* *ibid*, namely:

a) Paras 15.1 to 15.3 of the recommendations of 139th Parliamentary Standing Committee on Commerce;

- b) Para 1.10 of the Report of the Select Committee of the Rajya Sabha on the Constitution (122nd Amendment) Bill, 2014;
- c) Statement of Reasons and Objects of the Constitution (101st Amendment) Act, 2016; and
- d) Historical background to GST law and select international experiences (para 86 from page 66 to 75).

While rejecting any authoritative basis for such material to be admitted as a basis to guide the interpretation of statutory provisions, observations of the Id. dissenting Judge (left untouched by the Id. referee Judge) are very instructive “Therefore, the scheme of the GST law in India is taxation on supply. Concepts cannot be imposed upon clear, unambiguous Articles of the Constitution of India as well as the language in the provisions of the statute.” (para 112.5) and again “Without commenting on the necessity for the Parliament, GST Council/Government to take steps to implement or effectuate the above recommendations, it is pertinent to appreciate that the recommendations, do not have binding value nor are they enforceable.” (para 116.2) With a word of admonishment that where there is grievance that the Government is enacting laws contrary to these reports and recommendations that “In any event, it is always open to Petitioner to make appropriate representation to give effect to the above recommendations and for the Respondents to consider the same.” (para 116.4).

So, therefore, it flows from the combined reading of the views of all three Id. Judges in *DMJ v. UoI* that there are no such extra legislative ‘concepts’ residing in white-paper or committee reports or other pre-legislative consultations that can infiltrate the express language in the statute. And if the words do not permit (an interpretation) no amount of for stretching the concept or filling in with any backstory seems to impress the Court.

Considerations that need reconsideration

The important considerations that will remain at the heart of this controversy and attract reconsideration in future are located in Id. dissenting Judge’s decision:

- a) “Having noted that GST is a destination-based consumption tax” in para 52 is diametrically opposed to the view expressed in para 112.5 (discussed earlier) by Id. dissenting Judge. There is nothing in the GST law that states it to be a ‘destination-based consumption tax’. In fact, there are dozens of instances where destination of consumption is not the place of supply;
- b) “The question posed by the petitioners is in the context of their transactions, which is an export of service, as provided by the petitioners to the foreign principals.....In my opinion, the contention of the petitioners appears to be correct that the transactions in question of the petitioners are in fact a transactions

of export of services, as the recipient of services is the foreign principal” (para 60). There is nothing farther from the truth in GST that the payer of the price being located outside India does not determine the supply to be export. This is a popular layman-ish understanding of export – that the Customer is overseas (phoren). Making this assumption – export is decided by location of customer – would violate Parliament’s privilege to prescribe the ‘place of supply’ in article 269A(5) and 286(2);

- c) “In view of the destination-based principle on which the GST model operates.....in my opinion, it would not only to a consequence of double taxation but also an implausible and illogical effect, in recognizing two independent transactions to be one transaction” (para 79). There is no such principle and when the underlying premise is reconsidered then the edifice erected atop will topple;
- d) “In such a context, it would also be required to be examined whether Section 13(8)(b), along with the ancillary provisions, namely Section 12 and Section 8 of the IGST Act would have any applicability and/or relevance in the context of export of services” (91). Without POS (in case of intermediary services) being outside India, referring to them as ‘export of services’ is a misplaced expression that seems to have exerted a great and almost magnetic pull to divert the entire discourse. And if this expression – export of services (because Customer is located outside India) – is given

up, then strict construction would have led to the inevitable conclusion.

Conclusion

The surest test of agency is number of actors involved. If there are two then it is not agency even if it is called so. EYAL v. ADC is no precedent. Constitutionality of IGST Act has eventually been upheld in MRAI v. UoI as well as in DMJ v. UoI. So, the ‘short point’ as stated in para 78 by the Id. dissenting Judge that can CGST-SGST be levied on services of intermediary provided to a customer located outside India, can be resolved by considering:

- a) Union which levies IGST has ceded authority in favour of States to collect CGST-SGST on services of intermediaries and therefore CGST-SGST must continue to be discharged; or
- b) Existence of entry 12AA to Notification No.9/2017-Int. (R) dated 28th Jun 2017 which is not found in CGST-SGST tariff implies that IGST ought to apply on services of intermediaries.

Although option (a) is preferred over option (b), in any case, refinements are needed either in section 8(2) or in section 13(8) of IGST Act by making some retrospective amendment or by using (now popular) conflict resolution via an ‘as is basis’ circular. With the final words of the Id. referee Judge in para 109 not coming in the way, taxpayers may maintain status quo.

Contributed by CA. A Jatin Christopher

ICAI invites suggestions on GST

One of the primary objectives of the GST & Indirect Taxes Committee is to examine GST law and to submit suitable suggestions to the Government to make GST law simple, transparent, certain and equitable. The Committee also represents before the Government on issues in GST policy making and implementation.

The Committee seeks suggestions on issues/challenges in implementing the GST Law at the following link:

<https://idtc.icai.org/cc/apps/suggestions.php>

The suggestions should be aimed at establishing a simple and certain GST regime, improving ease of doing business and reducing litigation and must not pertain to any specific industry or sector. Suggestions found relevant by the Committee will be submitted to the Government.

Noida

GST and Indirect Taxes Committee
The Institute of Chartered Accountants of India

INPUT TAX CREDIT UNDER GST – THE WAY FORWARD

Input tax credit is the lifeline of Goods and Services Tax (GST). GST was introduced with the premises of allowing seamless input tax credit (ITC) across the value adding chain to remove the ills of erstwhile indirect tax systems. However, the taxpayers feel that under the current GST law, availing of ITC has become highly difficult on account of various onerous conditions and restrictions provided therein. The moot questions therefore that come up are 'To what extent the allegations are true? What is the true intent of Law??' Let's Analyse.

Constitutional Advocacy

To start with, let's seek recourse to the supreme law – The Constitution of India. Article 19 - Protection of certain rights regarding freedom of speech, etc. embodies the rights granted to citizens. Article 19(1)(f) dealt with the right to property and treated it as a Constitutional Right. However, vide 44th amendment to the Constitution of India in 1978, Article 19(1)(f) was omitted. Consequently, the right to property ceased to be a fundamental right and became only a legal right. By the same amendment, a new Article was added, Article 300A - Persons not to be deprived of property save by authority of law. A combined reading of both these amendments expounds the following impact.

ITC is not a Fundamental/Constitutional Right perse but once all underlying conditions under the governing Law are satisfied, it would become One.

ITC eligibility in erstwhile laws

The ongoing dispute regarding Input Credit admissibility or otherwise has its roots in the legacy of Excise- CENVAT continuing to State VAT and ultimately culminating in GST ITC. It is important to note, however, that the proposition highlighted in the para supra has been applied in numerous past decisions. Let's analyse a few landmark decisions and seek their application in GST.

1. Jayam and Company v. Asst. Comm. (2016) 15 SCC 125 - It is a trite law that whenever concession is given by statute or notification, etc. the conditions thereof are to be strictly complied with in order to avail such concession.
2. Coral Cosmetics Ltd. [2008 (225) E.L.T. 412 (Bom.)] - A vested right or even an existing right, including a right of action is not affected or allowed to be taken away unless it is so affected or taken away by the enactment expressly or by necessary implication.
3. Karnataka Value Added Tax Act, 2013 in State of Karnataka versus M.K. Agro Tech.(P) Ltd., (2017) 16 SCC 210- Keeping in view this objective, the legislature has intended to give tax credit to some

extent. However, how much tax credit to be given and under what circumstances, is the domain of the legislature and the courts are not to tinker with the same.

4. Eicher Motors Ltd. v. UOI (1999) 106 ELT 3 (SC) – Entitled to take credit once input is received in the factory on the basis of the existing scheme. Once conditions for availment of credit are satisfied it becomes an 'indefeasible right'. Later Government cannot deny this or lapse it.
5. Godrej and Boyce Mfg. Co. Pvt. Ltd. and Others v. CST (1992) 3 SCC 624- We fail to understand how a valid grievance can be made in respect of such deduction when the very extension of the benefit of set off is itself a boon or a concession.
6. CCE v. Dai Ichi Karkaria Ltd. (1999) 112 ELT 353 (SC) – It is clear from the rules that manufacturer obtains credit of the excise duty once it makes requisite declaration & obtains acknowledgement thereof.

GST ITC – The scenario today

Now that we have examined the origin and pre-GST scenarios, let us delve into the current situation of GST with regard to ITC. It is claimed that GST ITC law has complex provisions and over a period of time have become more complex and restrictive. Further, during GST audit/scrutiny the officers largely do not concur with the ITC claim of the taxpayers.

It is pertinent to analyse the root cause of this issue. As can be understood from the Statement of Objects and Reasons of the CGST Bill, 2017, the Government's intent was aptly clear that it sought to eliminate multiplicity of taxes levied on supply of goods and services, at State level and national level, which was leading to cascading of taxes. The thought process was allowing greater fungibility to ITC across businesses. This is evident from the definitions of inputs, input services & capital goods. These definitions in erstwhile CENVAT Credit were complex and led to disputes & varied interpretations. The simplification of these concepts & linking the ITC with business, rather than manufacturing is the most significant change towards making ITC all encompassing. The question is then, why the trade & industry is not finding ITC as a boon. The most palpable answer to this is the ill intent of few swindlers who have annihilated the ITC benevolence by resorting to deceitful means of bill trading, passing on bogus ITC and encashing illegitimate ITC refunds. The rebuttal to these acts is the present-day stringent ITC norms.

Though the legislative intent to introduce these stringent

provisions may be justifiable but these provisions are getting burdensome for the honest taxpayers and adversely affecting the ease of doing business. Further, these complicated provisions and procedures are resulting in various disputes. Let's vivisection two of these issues and strive to reach a resolution.

I am sharing my views and position in the ensuing paragraphs. Readers must exercise due professional diligence while applying these pointers in any particular case. Reference to section would mean sections of the Central Goods and Service Tax Act, 2017.

GST Issues

1. Tax is not paid by the supplier - Section 16(2)(c): The most common litigation today is relating to non-compliance of section 16(2)(c) condition which reads as: -

“(c) subject to the provisions of section 41 or section 43A, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply;”

This is taken as a very strong contention in denying the ITC. However, considering the propositions expounded by legacy decisions under the erstwhile laws and some recent developments under GST, we can counter the above allegations on the basis of the following:-

- 28th GST Council meeting minutes para 18.3“.....No automatic reversal of ITC at recipient's end on non-payment by supplier.....”
- Arise India Ltd Vs Commissioner of Trade & Taxes (Delhi High Court) (W.P.(C) 2106/2015)
- Principle of Lex non Cogit Ad impossibilia i.e., Purchasing dealer cannot be asked to do the impossible as it would be violative of Article 14.
- Recovery should be made from the seller first.
- DY Beathel Enterprises v. State Tax Officer (W.P. No. 2127 of 2021) (Mad.)

ITC cannot straight away be recovered from the recipient on failure in paying the tax by the supplier without-

(a) allowing the recipient to examine the supplier as a witness; and

(b) initiating recovery action against the said supplier.

These propositions may not hold good post October 1st 2022, when section 16(2)(ba) & section 38, amended vide the Finance Act, 2022, have come into force. Section 16(2)(ba) provides that the details of input tax credit in respect of the supply communicated to such registered person under section 38 should not be restricted. Amended section 38 prescribes

the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement.

It may be noted though that the rules under section 38 are yet to be notified. Further, to nullify the impact of above decisions, section 41 has been amended to provide for reversal of ITC along with interest if tax has not been paid by the supplier. These amendments are prospective and hence above contentions would hold good for all cases pertaining to anterior period.

2. Mismatch between Form GSTR-2A/2B vs Form GSTR-3B - Rule 36(4): Another issue is the mismatch of ITC or non-reflection of ITC in GSTR 2A/2B. This issue has been addressed by the CBIC for F.Y. 2017-18 & 2018-19 by issuing Circular 183/15/2022 – GST dt 27th December 2022. However, despite the Circular, the taxpayers still face such issues during audit & scrutiny for all anterior periods. A structured analysis of the relevant provisions with the chronology of amendments could assist us in handling the matter in assessment proceedings.

A. The GST law, since its inception, laid thrust on the concept of matching to ensure smooth transition of credit to recipient on payment of tax by the supplier. This however could not be achieved and the entire mechanism of matching – mismatching and consequent allowability – disallowability of ITC, as envisaged in sections 41, 42 & 43, never became operational.

B. The Government then introduced rule 36(4) in CGST Rules, 2017 to restrict unmatched credit. The GST Council in its 37th Meeting held on 20th September 2019, decided to impose certain restrictions on availment of ITC by the recipients. In furtherance of the same, Notification No. 49/2019-Central Tax, dated 09.10.2019 was issued to insert sub-rule (4) in rule 36 of the CGST Rules, 2017 from 09.10.2019. Through the above sub-rule, a restriction on the quantum of ITC that a taxpayer could avail on self-assessment basis was imposed. The effect of this sub-rule was that a taxpayer could avail ITC pertaining to outward supplies not declared by his supplier in Form GSTR-1 (and reflected in Form GSTR-2A) only upto the extent of 20% (reduced to 5% later on) of the eligible credit available in respect of invoices declared by his supplier in Form GSTR-1.

This sub-rule led to lot of litigations. Before introduction of the said sub-rule, vide the Central Goods and Services Tax (Amendment) Act, 2018, section 43A was inserted to create a legislative base for rule 36(4). This however never became

effective & the Finance Bill, 2022 eventually deleted the same.

- C. Since there was no legal backing to rule 36(4) many issues went up to the Courts and were decided in favour of the registered persons. Taking a cue from these decisions, the Government decided to introduce an additional condition in section 16(2) in the form of clause (aa) vide the Finance Act, 2021 which became effective from 1st Jan 2022 vide Notification No. 39/2021-CT dated 21.12.2021. Parallel amendment was made in rule 36(4) vide Notification No. 38/2021-Central Tax dated 21st December 2021 which also became effective from 1st Jan 2022.

The combined impact of the above amendments is that from 1st Jan 2022 onwards rule 36(4) has legal backing & the ITC reflected in Form GSTR-2B is only considered as final.

The taxpayers can respond to mismatch notices as under:

- Pre 09.10.2019
 - Period covered by Circular 183/15/2022 – GST: Relief as per Circular can be availed.
 - Others: Due to non-existence of rule 36(4) or any provision in GST law supporting the matching requirement, there is no legal base whatsoever to disallow ITC on the contention that it does not reflect in GSTR 2A/B. Also reference of case laws given below can be supplemented.
- From 09.10.2019 till 31.12.2021 i.e., before section 16(2)(aa) is notified on 1st Jan 2022– See discussion given below*
- Post notification of section 16(2)(aa) – Need to comply with the provisions.

*Notices for mismatch from 09.10.2019 till 31.12.2021 i.e., before section 16(2)(aa) is notified on 1st Jan 2022: Even though rule 36(4) was notified but it lacked any legal backing. Section 43A was never notified which could have provided the legal support. The following pointers could be presented in support of your claim.

 - No legal backing since rules cannot supersede Act
 - o Alstom India Ltd (Guj HC)
 - o Sukhdev Singh & Ors Vs Bagatram Sardar Singh 1975 AIR 1331
 - 39th GST Council Meeting minutes specify that to overcome above issue section 16(2)

(aa) shall be introduced.

- Section 43A not notified. Section 43A(4) provided for restriction on quantum of ITC.
- As Form GSTR – 3B is considered as Form GSTR – 3, it shall be deemed that the matching visualized u/s 41, 42 & 43 has been done away with.
- Section 16(2)(aa) is notified from 1st Jan 2022. Also, the rationale for introducing section 16(2) (aa) is evident from the minutes of the 39th GST Council Meeting, which categorically stated that the proposed amendment is brought in order to complete the linkage of outward supplies declared by the supplier with the tax liability & also limiting the credit availed in Form GSTR-3B. This is sufficient to prove that prior to implementation of section 16(2)(aa) there is no legal validity of rule 16(4).
- UOI Vs Bharti Airtel Ltd. & Ors. SLP (C) No. 8654 of 2020 - Form GSTR-2A is only a facilitator for taking informed decisions while doing self –assessment.

Above contentions are also relevant for following issues:

- B2B supply wrongly shown as B2C supply
- Tax shown under wrong head
- Tax paid in Form GSTR-3B but supplies not uploaded/wrongly uploaded in Form GSTR 1

Conclusion

The dream of One Nation One Tax could be truly realised only when there is seamless flow of credit and issues relating to ITC allowability are suitably addressed.

Contributed by CA. Vishal Poddar



GST UPDATES

1) Clarification regarding GST rate and classification of 'Rab'

The GST Council, at its 49th meeting held on 18.02.2023, reduced the GST rate on 'Rab' to 5%, when sold in pre-packaged and labelled form and 'Nil' rate, when sold in other than pre-packaged and labelled form. Notification No. 03/2023-CT(R) dt. 28.02.2023 and Notification No. 04/2023-CT(R) dt. 28.02.2023 were issued to give effect to these changes w.e.f. 01.03.2023.

However, it is also to be noted that in the 48th GST Council meeting held on 17.12.2022 it was held that 'Rab' is classifiable under the heading 1702 attracting GST rate of 18%.

Circular No. 191/03/2023-GST dt. 27.03.2023 has now been issued to clarify that due to the prevailing divergent interpretations and genuine doubts regarding the applicability of GST rate on Rab, the issue for past period shall be regularized on "as is" basis.

Note: "Rab" means 'massecuite prepared by concentrating sugarcane juice on open pan furnaces, and includes Rab Galawat and Rab Salawat, but does not include khandsari molasses or lauta gur.

2) Reduction/waiver of late fee if Forms GSTR-4, GSTR-9 & GSTR-10 of earlier periods are filed within April-June 2023

Default	Reduced late fee	Condition
Non-filing of Form GSTR-4 (Return for composition supplier) for quarters falling between the period July 2017 to March 2019 or the financial years from 2019-20 to 2021-22, by the due date	Rs. 500 [Rs. 250 each for CGST & SGST] OR Nil, if no GST is payable	Return is filed between the period 01.04.2023 and 30.06.2023
Non-filing of Form GSTR-9 (Annual Return) for financial years 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22, by the due date	Total late fee restricted to Rs. 20,000 [Rs. 10,000 each for CGST & SGST]	
Non filing of Form GSTR-10 (Final Return) by the due date	Rs. 1,000 [Rs. 500 each for CGST & SGST]	

Based on Notification No. 02/2023-CT dt. 31.03.2023, Notification No. 07/2023-CT dt. 31.03.2023 and Notification No. 08/2023-CT dt. 31.03.2023

3) Prospective rationalisation of late fee for delayed filing of annual return by specific class of registered persons

The amount of late fee for delayed filing of Form GSTR-9 (Annual Return) for FY 2022-23 onwards has been restricted for specific class of registered persons, in the following manner:

Class of registered persons	Amount of late fee
Registered persons having an aggregate turnover up to Rs. 5 crore in the relevant financial year	Rs. 50 [Rs. 25 each for CGST & SGST] per day subject to a maximum of 0.04% [0.02% each for CGST & SGST] of turnover in the State or Union Territory
Registered persons having an aggregate turnover of more than Rs. 5 crore and up to Rs. 20 crore in the relevant financial year	Rs. 100 [Rs. 50 each for CGST & SGST] per day subject to a maximum of 0.04% [0.02% each for CGST & SGST] of turnover in the State or Union Territory

Based on Notification No. 07/2023-CT dt. 31.03.2023

Note: For registered persons other than the above, late fee as provided under section 47 shall be leviable i.e., Rs. 200 [Rs. 100 each for CGST & SGST] per day subject to a maximum of 0.5% [0.25 % each for CGST & SGST] of turnover in the State or Union Territory.

4) Extension of time limit for applying for revocation of cancellation of registration

The following registered persons, who have failed to apply for revocation of cancellation of their registration within a period of 30 days or such extended period as prescribed in section 30, have been allowed to apply for the same up to 30th June, 2023, as under:

Registered person	Conditions
Composition taxpayer, whose registration has been cancelled on or before 31.12.2022 due to non-furnishing of return for a financial year beyond three months from the due date of furnishing the said return	1. Application for revocation of cancellation of registration to be made after furnishing of returns due up to the effective date of cancellation of registration and payment of due tax, interest, penalty and late fee in respect of such returns.
Regular taxpayer filing monthly returns, whose registration has been cancelled due to non-furnishing of return for 6 months	2. No further extension shall be provided for filing application of revocation of cancellation of registration in such cases.

Regular taxpayer filing quarterly returns, whose registration has been cancelled on or before 31.12.2022 due to non-furnishing of return for 2 tax periods	
Here, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 shall include a person whose appeal against the order of cancellation of registration or the order rejecting the application for revocation of cancellation of registration under section 107 of CGST Act has been rejected on the ground of failure to adhere to the time limit specified under section 30(1) of the Act. Hence, such persons can also apply for revocation of cancellation of registration up to 30th June, 2023.	

Notification No. 03/2023-CT dt. 31.03.2023

5) Deemed withdrawal of assessment orders issued under section 62 of the CGST Act (Assessment of non-filers of returns)

The assessment order under section 62(1) of the CGST Act issued on or before 28.02.2023 in respect of the registered person who has failed to furnish a valid return within a period of 30 days of the service of such assessment order shall be deemed to be withdrawn, if such registered person furnishes the said return on or before 30.06.2023 along with interest due under section 50(1) and late fee payable under section 47.

The above benefit shall be available irrespective of whether or not an appeal has been filed against such assessment order under section 107 or whether or not the appeal, if any, filed against the said assessment order been decided.

Notification No. 06/2023-CT dt. 31.03.2023

6) Extension of time limit for issuing adjudication order under section 73 for specific financial years

As per section 73(10) of the CGST Act, the proper officer has to issue the order under section 73(9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

The said time limit under section 73(10) for issuing the order under section 73(9) has been extended in the following manner:

Financial Year	Due date of filing Annual return	Time period for issuing order u/s 73(10)	Extended time period for issuing order u/s 73(10)
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2017-18	05.02.2020 / 07.02.2020	Up to 05.02.2023 / 07.02.2023	Up to 31.12.2023
2018-19	31.12.2020	Up to 31.12.2023	Up to 31.03.2024
2019-20	31.03.2021	Up to 31.03.2024	Up to 30.06.2024

Notification No. 09/2023-CT dt. 31.03.2023

7) Amendment in rule 8 (Application for registration) of CGST Rules, 2017 w.e.f. 26.12.2022

Sub-rule (4A) of rule 8 has been substituted with effect from 26.12.2022 to provide that where an applicant, except a person notified under section 25(6D) of CGST Act, opts for authentication of Aadhar number, he shall, while submitting the application for registration undergo authentication of Aadhar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhar number, or 15 days from the submission of the application in Part B of Form REG-01, whichever is earlier.

Every registration application made by a person, except a person notified under section 25(6D), who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication. This will also include taking of photographs of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under section 25(6C) of CGST Act 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 and the application shall be deemed to be complete only after completion of such process.

Further, with effect from 26.12.2022, consequential amendments have also been made in sub-rule (4B) of rule 8 and Notification No. 27/2022-CT dt. 26.12.2022 issued under sub-rule (4B).

Notification No. 04/2023-CT dt. 31.03.2023 and Notification No. 05/2023-CT dt. 31.03.2023

8) Amendments to the Schedule to the GST (Compensation to States) Act, 2017 brought into force from 1st April, 2023

Amendments made in the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017 by section 163 of the Finance Act, 2023 have been brought into force w.e.f. 01.04.2023 vide Notification No. 01/2023-Compensation Cess dt. 31.03.2023. The Schedule has been amended to revise the maximum rate at which GST Compensation Cess shall be collected for items such as pan masala, tobacco and manufactured tobacco substitutes, including tobacco products and to link the same with retail sale price. A

new explanation defining the scope of 'retail sale price' has also been inserted therein.

Further, Notification No. 01/2017-Compensation Cess (Rate) dt. 28.06.2017 which specifies the rate of GST Compensation Cess on goods has been amended vide Notification No.2/ 2023-Compensation Cess (Rate) dt. 31.03.2023.

9) Amendments made in the CGST Act, 2017 vide Finance Act, 2023

The Finance Bill, 2023 received the assent of the President of India and became the Finance Act, 2023 on 31st March, 2023. The Finance Act, 2023 has made the following amendments which shall be effective from the date to be notified subsequently:

a) Amendments in Section 10 (Composition Levy)

Clause (d) of sub-section (2) and clause (c) of sub-section (2A) in section 10 of the CGST Act has been amended to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the composition levy.

b) Amendment in Section 16 (Eligibility and conditions for taking input tax credit)

2nd and 3rd provisos to sub-section (2) of section 16 of the CGST Act have been amended to align the said sub-section with the return filing system provided in the said Act.

c) Amendment in Section 17 (Apportionment of credit and blocked credits)

Explanation to sub-section (3) of section 17 of the CGST Act has been amended so as to restrict the availment of input tax credit in respect of the value of such activities or transactions as prescribed in para 8(a) of Schedule III of the said Act, i.e., supply of warehoused goods to any person before clearance for home consumption, by including the value of such transactions in the value of exempt supply.

Further, sub-section (5) of said section has been amended to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.

d) Amendments in Section 23 (Persons not liable for registration)

Section 23 has been amended to provide that the category of persons who have been notified by the Government as exempt from obtaining registration under sub-section (2) of section 23, need not register if they are otherwise liable to register under section 22(1) or section 24.

e) Amendment in Section 30 (Revocation of cancellation of registration)

The period of 30 days as provided in section 30 for applying for revocation of cancellation of registration has been removed. It has been provided that cancellation shall be revoked in such manner, within such time and subject to such conditions and restrictions as may be prescribed. The corresponding proviso to sub-section (1) providing for the extension of such 30 days has also been removed.

f) Amendment in Sections 37, 39, 44 and 52

New sub-sections (5), (11), (2) and (15) has been inserted in sections 37, 39, 44 and 52 of the CGST Act respectively so as to provide a time limit upto which the details of outward supplies under section 37 or return for a tax period furnished by a registered person under section 39 or the annual return under sub-section (1) of section 44 for a financial year can be furnished by a registered person or the statement under sub-section (4) of section 52 for a month can be furnished by an electronic commerce operator.

Further, it also provided an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.

g) Amendment in Section 54 (Refund of tax)

Sub-section (6) of section 54 of the CGST Act has been amended so as to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act.

h) Amendment in Section 56 (Interest on delayed refunds)

Section 56 of the CGST Act has been amended to provide an enabling provision to prescribe the manner of computation of period of delay for calculation of interest on delayed refunds.

i) Amendment in Section 62 (Assessment of non-filers of returns)

Section 62 has been amended to extend the period, available to a non-filer of returns, for furnishing a valid return from 30 days to 60 days from the service of the assessment order. Further, where the registered person fails to furnish a valid return within 60 days, he may furnish the same within a further period of 60 days on payment of an additional late fee of Rs. 100 for each day of delay beyond 60 days. If the registered person furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn but the liability to pay interest under section 50(1) and late fee under section 47 shall continue.

j) Substitution of Section 109 (Constitution of Appellate Tribunal and Benches thereof)

Section 109 has been amended to provide for the constitution of GST Appellate Tribunal to hear appeals against Appellate Authority or Revisional Authority. The GST Appellate Tribunal shall have a

- Principal Bench, and
- State Benches.

The Principal Bench will be in New Delhi, consisting of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State). The State Benches will consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).

The President of the Principal Bench will distribute cases amongst the State Benches and refer cases to other members if there is a difference in opinion within the same bench.

Matters related to place of supply shall be heard by the Principal Bench only.

A single member bench, with the approval of the President, will hear cases where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order is upto Rs. 50 lakhs, and no question of law is involved.

The Government may in consultation with the President for administrative efficiency transfer members from one state to another state. Further, a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.

k) Substitution of Section 110 (President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.-)

- i. The President of the Tribunal shall be a former Supreme Court judge or a former/present Chief Justice of a High Court.
- ii. A Judicial member shall be a former Judge of the High Court or former District Judge or an Additional District Judge for a combined period of 10 years.
- iii. A Technical Member (Centre) shall be a former/present member of the Indian Revenue (Customs and Indirect Taxes) Service, Group A, or former/present member of the All India Service with at least three years of experience in the administration of an existing law or goods and services tax in the Central Government and has completed at least twenty-five years of service in Group A.
- iv. A Technical Member (State) shall be an officer of the State Government or of All India Service,

not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank, not lower than that of the First Appellate Authority, as may be notified by the concerned State Government, on the recommendations of the Council and has completed twenty-five years of service in Group A, or equivalent, with at least three years of experience in the administration of existing law or the goods and services tax or in the field of finance and taxation in the State Government.

- v. The State Government can relax the requirements of completion of twenty-five years of service in Group A or equivalent, in respect of officers of such State where no person has completed twenty-five years of service in Group A, or equivalent, but has completed twenty-five years of service in the Government, subject to such conditions, and till such period, as may be specified in the notification.
- vi. The President, Judicial Member, Technical Member (Centre) and Technical Member (State) shall be appointed or re-appointed by the Government on the recommendations of a Search-cum-Selection Committee. Notwithstanding anything contained in any judgement, order, or decree of any court or any law for the time being in force, the Committee shall recommend a panel of two names for appointment or re-appointment to the post of the President or a Member, as the case may be.
- vii. No appointment or re-appointment of the Members of the Appellate Tribunal shall be invalid merely by reason of any vacancy or defect in the constitution of the Search-cum-Selection Committee.
- viii. In case, any vacancy arises in the office of President by reason of death, resignation or otherwise, the Judicial Member or, in his absence, the senior-most Technical Member of the Principal Bench shall act as the President until the date on which a new President is appointed. In case the President is unable to discharge his functions due to absence, illness or any other cause, the Judicial Member or, in his absence, the senior-most Technical Member of the Principal Bench, shall discharge the functions of the President until the date on which the President resumes his duties.
- ix. The President of the Appellate Tribunal, the Judicial member, Technical members (both State & Centre) shall hold office for a term of four years from the date on which they enter upon their office, or until he attains the age of sixty-seven years (for President)/sixty five (for

others), whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.

The Government may, on the recommendations of the Search-cum-Selection Committee, remove from the office President or a Member after informing them of the charges against them and giving an opportunity of being heard, who—

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such President or Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

The Government, on the recommendations of the Search-cum-Selection Committee, may suspend from office, the President or a Judicial or Technical Member in respect of whom proceedings for removal have been initiated.

- l) Substitution of Section 114 (Financial and administrative powers of President)

Section 114 has been substituted to state that the President shall exercise such financial and administrative powers over the Appellate Tribunal as may be prescribed.

- m) Amendment in Sections 117, 118 and 119 (Appeal to High Court, Appeal to Supreme Court, Sums due to be paid notwithstanding appeal)

Consequent to the establishment of GST Appellate Tribunal, sections 117, 118 and 119 have been amended to substitute the words “National or Regional Bench” with “Principal Bench” and “State Bench or Area Benches” with “State Benches”.

- n) Amendment in Section 122 (Penalty for certain offences)

A new sub-section (1B) in section 122 of the CGST Act has been inserted so as to provide for penal provisions applicable to Electronic Commerce Operators. Any electronic commerce operator who—

- (i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;
- (ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible

to make such inter-State supply; or

- (iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.

- o) Amendment in Section 132 (Punishment for certain offences)

Sub-section (1) of section 132 of the CGST Act has been amended so as to decriminalize the following offences:

- obstructing or preventing any officer in the discharge of his duties under this Act
- tampering with or destroying any material evidence or documents
- failing to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information

Further, the monetary limit for launching of prosecution in case of offences under the CGST Act has been increased from Rs. 1 crore to Rs. 2 crore. However, in case of fake invoicing i.e., issue of any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax, the monetary limit of launching prosecution shall be Rs. 1 crore.

- p) Amendment in Section 138 (Compounding of offences)

First proviso to sub-section (1) of section 138 of the CGST Act has been amended so as to simplify the language of clause (a), to omit clause (b) and to substitute clause (c) of said proviso so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act.

It further seeks to amend sub-section (2) to rationalize the amount for compounding of offences and changing it from ‘ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher’ to ‘twenty-five per cent. of the tax involved and the maximum amount

not being more than one hundred per cent. of the tax involved’.

- q) Insertion of Section 158A (Consent based sharing of information furnished by taxable person)

A new section 158A in the CGST Act has been inserted so as to provide for prescribing manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.

- r) Retrospective exemption to certain activities and transactions in Schedule III to the Central Goods and Services Tax Act

It has been clarified that paragraph 7 and 8 and the Explanation 2 thereof of Schedule III to the Central Goods and Services Tax Act shall be applicable retrospectively with effect from 01.07.2017. It has also been clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 1st July, 2017 to 31st January, 2019, no refund of such tax paid shall be available.

10) Amendments made in the IGST Act, 2017 vide Finance Act, 2023

- a) Amendment in Section 2(16) – Definition of Non-Taxable Online Recipient

The definition of Non-Taxable Online Recipient has been revised by removing the condition of ‘receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession’ so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory.

For the purposes of this clause, the expression “unregistered person” includes a person registered

solely in terms of clause (vi) of section 24 of the CGST Act, 2017.

- b) Amendment in Section 2(17) - Online information and database access or retrieval services

The definition of ‘Online information and database access or retrieval services’ has been revised to remove the condition of rendering of the said supply being essentially automated and involving minimal human intervention.

- c) Amendment in Section 12 – Place of supply of services by way of transportation of goods, including by mail or courier, where location of supplier and location of recipient is in India

Proviso to sub-section (8) of section 12 of the IGST Act has been omitted to specify the place of supply as already specified for registered and unregistered persons, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India, for services by way of transportation of goods, including by mail or courier.

- d) Amendment in Section 13 – Place of supply of services of transportation of goods, other than by way of mail or courier, where either the location of supplier or the location of recipient is outside India

This clause has been omitted. Therefore, the place of supply of such services will be determined through the default rule under section 13(2) and thus, the same will be the location of the recipient of such services.

11) Amendment in GST (Compensation to States) Act, 2017

The maximum rate at which GST Compensation Cess may be collected for items such as pan masala, tobacco and manufactured tobacco substitutes, including tobacco products have been revised and linked with retail sale price. Accordingly, a new explanation defining the scope of ‘retail sale price’ is also inserted therein.

This amendment has been notified and explained supra.

INVITATION TO WRITE ARTICLES ON GST

Chartered Accountants and other experts, with academic passion and flair for writing are invited to share their expertise on GST through ICAI-GST Newsletter. The article may be on any topic related to GST Law. While submitting the articles, please keep the following aspects in mind:

- 1) Article should be of 2000-2500 words.
- 2) An executive summary of about 100 words may accompany the article.
- 3) It should be original and not published/should not have been sent for publishing anywhere else.
- 4) Copyright of the selected article shall vest with the ICAI.

Please send editable soft copy of the article at gst@icai.in.

ANNOUNCEMENT

UPCOMING CERTIFICATE COURSES ON GST

We are pleased to inform you that the GST & Indirect Taxes Committee of ICAI is organising the Certificate Course on GST as per below mentioned schedule & Locations:

Location	Bhilai	Kadapa	Kolkata
Dates	03-06-2023 => Saturday 04-06-2023 => Sunday 10-06-2023 => Saturday 11-06-2023 => Sunday 17-06-2023 => Saturday 18-06-2023 => Sunday 24-06-2023 => Saturday 25-06-2023 => Sunday 02-07-2023 => Sunday 03-07-2023 => Monday	03-06-2023 => Saturday 04-06-2023 => Sunday 10-06-2023 => Saturday 11-06-2023 => Sunday 17-06-2023 => Saturday 18-06-2023 => Sunday 24-06-2023 => Saturday 25-06-2023 => Sunday 02-07-2023 => Sunday 03-07-2023 => Monday	17-06-2023 => Saturday 18-06-2023 => Sunday 25-06-2023 => Sunday 02-07-2023 => Sunday 08-07-2023 => Saturday 09-07-2023 => Sunday 15-07-2023=> Saturday 16-07-2023=> Sunday 22-07-2023 => Saturday 23-07-2023 => Sunday
Time	10.00 am to 5.30 pm	10.00 am to 5.30 pm	10.00 am to 5.30 pm
Venue	Bhilai Branch of Central India Regional Council of ICAI (CIRC-ICAI) - Bhilai, ICAI Bhawan, Near Apex Bank, Civic Center, Bhilai, Chhattisgarh-490006	Nihar Multi Skill Development Centre, 1/492-2-2, Smith Road, Near Y S R Congress Party Office, Nagarajupet, Kadapa - 516001	ICAI Bhawan, Russell Street, Kolkata (2nd Floor)
Fees	Rs. 12,600 /- plus GST	Rs. 12,600 /- plus GST	Rs. 14,000 /- plus GST
Registration Link	https://learning.icai.org/committee/certificate-gst-physical-bhilai/	https://learning.icai.org/committee/gst-certificate-course-at-kadapa/	https://learning.icai.org/committee/gst-certificate-course-physical-kolkata/
Details about the Course	https://d23z1tp9il9etb.cloudfront.net/download/pdf23/Course-Curriculum-Physical-Certificate-Course-on-GST.pdf		

30 CPE Hours (25 after the classes + 5 after the Assessment Test) will be provided to the participants. Members may write to us at gst@icai.in for any clarification.

The registration window has been opened for ICAI members and the same shall be on first-come-first-serve basis. Registration will be closed once the batch size reaches its full capacity.

For any questions or doubts, the FAQs for the Course, which are self-explanatory, may be referred to. For any further clarifications, members may write to us at gst@icai.in.

SIGNIFICANT RECENT INITIATIVES OF THE GST & INDIRECT TAXES COMMITTEE

1. Collaboration with Government of Jammu & Kashmir for organising 'Kartavya', a tax awareness programme for taxpayers, trade associations, and other stakeholders

The State Taxes Department, Jammu and Kashmir in collaboration with GST & Indirect Taxes Committee of ICAI organised "Kartavya: A Tax Awareness Initiative" for bulk awareness of taxpayers, trade associations and other stakeholders on 1st March, 2023 at Convention Centre, Jammu. The programme was attended by approx. 450 participants comprising of officers of State Taxes Department, J&K, Drawing & Disbursing officers, taxpayers, chartered accountants and representatives from trade associations etc.

Hon'ble Lieutenant Governor of J&K, Shri Manoj Sinha, inaugurated the programme. Chief Secretary, J&K, Dr. Arun Kumar Mehta, Advisor to Lieutenant Governor, Shri Rajeev Rai Bhatnagar and Commissioner, State Taxes, J&K, Dr. Rashmi Singh attended the inaugural session. From ICAI, Vice-President, ICAI and Vice-Chairman, GST & Indirect Taxes Committee attended the programme. The Vice-President, ICAI addressed the audience at the inaugural session.

2. Certificate Course on GST

Physical batches of Certificate Course on GST have been organised at Amravati and Visakhapatnam during the period March-April 2023 and 54 members have attended the same. Further, a batch has commenced at Bhubaneswar from 6th May, 2023 and batches have been announced at Mumbai from 20th May, Delhi from 27th May, Sivakasi from 27th May and Bhilai from 3rd June, 2023 onwards.

3. Publications

The Committee has revised two of its publications,

namely, "Background Material on GST" and "GST Act(s) and Rule(s)- Bare Law" up to the Finance Act, 2023. The order for hard copy of the said publications can be placed at <https://icai-cds.org/> and soft copy can be downloaded from <https://idtc.icai.org/publications.php>

4. CPE events upskilling members

In order to upgrade the skills of members in GST, webinars on following topics were organised by the Committee:

1.	23 rd Feb, 2023	Panel Discussion on Recommendations of 49 th GST Council Meeting including GST Appellate Tribunal
2.	16 th March, 2023	Year-end compliances with GST perspective
3.	23 rd March, 2023	GST Compliances in Banking & Financial Sector

The recording of the above webinars can be accessed at <https://icaitv.com/> Further, during the period February-May 2023, the Committee organised physical CPE events on GST at Ludhiana, Gurugram, Rajkot, Alwar, Siliguri, Chhatrapati Sambhajanagar, Madurai and Agra to keep the members abreast with the latest position of GST law.

5. "10 Point GST"-A Short Video Series

Adding to the videos under the series, "10 Point GST", the Committee has developed another short video on "What are Goods under GST?" taking the total tally of the short videos to 13. All the short videos can be accessed at the website of the Committee at <https://shorturl.at/cDIW8>

TWO DAYS NATIONAL CONFERENCE ON GST

9th and 10th June, 2023

Place : Kochi • CPE Hours : 12 Hours

Title of the Seminar : Two Days National Conference on GST

Contact Details : Ernakulam Branch of SIRC of ICAI
Ph: 0424 2362027
Email: ernakulam@icai.org

Visit website of the Committee: <https://idtc.icai.org>

Registration and Payment Details: www.kochiicai.org

- Limited seats, registration will be on first come-first serve basis.
- Fees (including GST):
 - For annual members of Ernakulam Branch of SIRC of ICAI – NIL
 - For other members - Rs. 2,100 + 18% GST = Total Rs. 2,478 /-
 - For non-members – Rs. 2,300 + 18% GST = Total Rs. 2,714 /-

GST QUIZ

- A Ltd. seeks an advance ruling for certain compliance issues related to e-way bills. Choose the correct option from the following:**
 - The advance ruling can be sought in relation to e-way bills compliance only in the state where A Ltd. has the registered office
 - The advance ruling can be sought in relation to e-way bills compliance from any location where dispatch of goods is made by A Ltd.
 - No advance ruling can be sought by A Ltd. on the issue related to compliance of e-way bill provisions
 - The advance ruling can be sought in relation to e-way bills compliance from any location where receipt of goods is made by the customers of X Ltd.
- As per rule 87, deposit in Electronic Cash Ledger can be made through which of the following modes?**
 - Unified Payment Interface (UPI) from any bank
 - Immediate Payment Services (IMPS) from any bank
 - (a) or (b)
 - Any mode as preferred by the taxpayer
- Any amount available in the electronic cash ledger can be transferred to the electronic cash ledger for central tax or integrated tax of a distinct person through Form GST Form PMT-09-**
 - On payment of any unpaid liability in electronic liability register
 - Is not allowed
 - Is allowed on approval of the transferor
 - Is allowed on approval of the transferee
- Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students is**
 - Taxable @ 12%
 - Taxable @ 28%
 - Taxable under reverse Charge
 - Exempt
- On 1.12.2022, Mr. X, registered in the State of Odisha, hires the services of an Indian shipping line located in the State of Andhra Pradesh, for transport of goods to China. Which is correct in this context?**
This transaction attracts the levy of-
 - Place of supply is Andhra Pradesh and supply being an inter-State supply, IGST shall be leviable.
 - Place of supply is China and supply being an inter-State supply, IGST shall be leviable.
 - Place of supply is China and being an export of service, the supply shall be zero rated.
 - Place of supply is China, but the inter-State supply is exempt from IGST.
- The cases of anti-profiteering being handled by the Authority of Anti-profiteering havenow been handed over to-**
 - Securities and Exchange Board of India (SEBI)
 - Competition Commission of India (CCI)
 - GST Appellate Tribunal
 - National Appellate Authority
- A company, which has been issued a certificate of registration, has to undergo authentication of the Aadhaar number of –**
 - Executive Director
 - Non-Executive Director
 - Whole-time Director or Managing Director
 - Any of the above
- Which of the following steps should be discouraged while doing classification under GST?**
 - Identifying the nature of goods being supplied
 - Classifying goods using logic and common sense
 - Understanding the nature of process carried out on the inputs
 - Differentiating between goods and services
- Mr. R was searched by the team of SGST officers. The proper officer thought that Mr. R will abscond after such search, hence, he made a protective summary assessment under section 64 raising a demand of Rs. 3.8 crore. Mr. R's consultant advised him that he can apply to withdraw such assessment within:**
 - Within 15 days from the date of issue of summary assessment order
 - Within 30 days from the date of receipt of summary assessment order
 - Within 45 days from the date of receipt of summary assessment order
 - Within 90 days from the date of issue of summary assessment order
- If the officer authorized to conduct search and seizure is denied access to any premises where documents of the person are suspected to be concealed, what are the powers available to him under section 67?**
 - Break open the door of such premises
 - Seal such premises
 - Either (a) or (b)
 - Arrest the person denying access

The names of first five members who provided all the correct answers of the last Quiz within 48 hours are as under:

Name	Membership No.
CA. Vipin	561749
CA. Kamal	544189
CA. Suraj Sharma	555608
CA. Mohd Abid	566549
CA. Simran Singh Saluja	450955

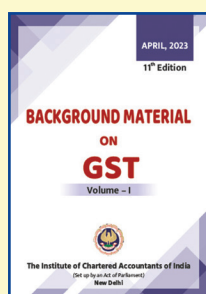
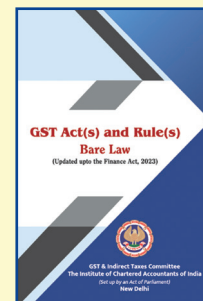
Please provide reply of the above MCQs in the link given below. The name of the first 5 members who provide all the correct answers within 48 hours of receipt of this Newsletter, would be published in the next edition.

Link to reply: <https://docs.google.com/forms/d/1iGI1V5NR-Ywq6zcGg32RdTadF39EejvBAmQf7sNzruE/edit>

REVISED PUBLICATIONS

GST Act(s) and Rule(s) - Bare Law

The GST & Indirect Taxes Committee has revised its publication “GST Act(s) and Rule(s) – Bare Law”. The publication is a compilation of five Act(s) and two sets of Rule(s) pertaining to GST, namely the Constitution (101st Amendment) Act, the Central Goods & Services Tax Act, 2017, the Integrated Goods & Services Tax Act, 2017, the Union Territory Goods & Services Tax Act, 2017, the GST (Compensation to States) Act, 2017, the Central Goods & Services Tax Rules, 2017 and the Integrated Goods & Services Tax Rules, 2017. The publication is amended for the changes taken place upto 31st March, 2023 including the amendment made vide The Finance Act, 2023.



Background Material on GST

The GST & Indirect Taxes Committee has come out with the 11th edition of the ‘Background Material on GST’ to keep the readers up to date with the changes in GST law as also have a deep understanding of the law. It contains statutory provisions of GST law and their analysis including FAQs, MCQs, flowcharts, illustrations etc. to make the publication reader friendly. It is updated with the notifications and circulars as issued by the CBIC upto 31st March, 2023 including the amendment made vide The Finance Act, 2023.



GST & INDIRECT TAXES COMMITTEE OF ICAI

A ONE STOP DESTINATION FOR ALL INDIRECT TAXES

website: www.idtc.icai.org



The website of GST and Indirect Taxes Committee of ICAI viz. www.idtc.icai.org provides the users a well-set platform for sharing and gaining knowledge on GST and other indirect taxes and easy accessibility to the committee. The committee works relentlessly towards keeping the members abreast with the latest changes in all the indirect taxes laws vide various mediums like organising programmes, updating publications, sending regular updates, etc.

Main features:

- ❖ Regular GST / Indirect Taxes Updates
- ❖ Knowledge Bank of Indirect Taxes/ GST– Articles, Legal Updates etc.
- ❖ Publications on GST and other IDT Law including UAE VAT Law etc.- (Available for free download and online ordering)
- ❖ Recordings of Live Webcasts / E-lectures on GST
- ❖ E-learning on GST
- ❖ Upcoming events
- ❖ Details of Certificate Courses, Programme, Seminars etc. on GST/ Indirect Taxes
- ❖ Links of related important website

Your suggestions on the website are welcome at gst@icai.in

Secretary
GST & Indirect Taxes Committee
The Institute of Chartered Accountants of India
ICAI Bhawan
A-29, Sector - 62, NOIDA (U.P.) India
Telephone Direct - +91 120 3045 954
Telephone Board - +91 120 3045 900 Ext. 954
Website: <http://www.idtc.icai.org/idtc@icai.in>
for help please visit: <http://help.icai.org/>

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