



ICAI-GST

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



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President's Communication



Dear Professional Colleagues,

Greetings from the Institute of Chartered Accountants of India (ICAI)!

ICAI's role as a partner in nation building is well acknowledged by one and all. With meticulous vision and combined efforts of Central Government along with the State Governments, GST has come a long way since its inception in July 2017. The steps taken by the Government to ease the compliance burden have led to increased collection and a robust GST law. ICAI has been continually undertaking measures to spread awareness about GST amongst its members and other stakeholders at large and assisting the Government in establishing and further strengthening a fair, simple and transparent GST regime in India. I am thankful to our members who have actively participated in the Institute's initiatives and helped so far in the execution of the Nation's GST agenda successfully and I am sure they will remain associated and contribute in the times to come as well.

Since implementation of GST regime in India in 2017, GST collections have grown by leaps and bounds and in April 2023 a highest ever monthly GST collection of Rs. 1.87 lakh crore has been made. The robust GST revenue collection is a sign of strong and resilient Indian economy.

The GST and Indirect Taxes Committee of ICAI, as always, tries its best to foster significant improvements in the GST law and generate awareness about the initiatives and measures being taken by the Government from time to time and assist the Government in every possible way. Recently, the Committee has revised its flagship publication, "*Background Material on GST*" up to the Finance Act, 2023. This publication is an exhaustive resource material on GST which would be immensely useful for anyone dealing in GST.

I urge all of you to continue to work towards expanding our legacy as valued trustees of public interest.

CA. Aniket S. Talati

President

The Institute of Chartered Accountants of India

Chairman's Communication



Dear Members,

Warm Greetings!

I along with CA. Umesh Sharma, Vice-Chairman, GST & Indirect Tax Committee, would like to present to you the 36th Edition of the ICAI GST Newsletter.

CBIC has started a two-month drive on All India basis from 16th May, 2023 till 15th July, 2023 against fake registrations. A National Coordination Committee has been formed to monitor the performance of the drive. The unique modus operandi found during this special drive will be shared with Central and State Tax administrations across the country. Further, turnover limit for e-invoicing is set to be reduced from Rs.10 crores to Rs. 5 crores from 1st August, 2023 to promote greater transparency in the GST ecosystem.

It is going to be six years since the introduction of GST in India and there have been innumerable amendments in the law during this time. The dynamic nature of GST law makes it imperative for the members to continually upgrade their knowledge base and hone their skills in GST. Appreciating this requirement of continuous training, the Committee is making concerted efforts in conducting Certificate Course on GST at various branches/regions across the country so that more and more members can upskill themselves with the updated knowledge of GST.

I am delighted to inform you that considering the significance of this course, it has been decided to reduce the fee to Rs. 9,000 for all cities. Presently, these courses are running at Kadapa, Bhilai, Delhi, Sivakasi and Kolkata. Interested members can keep track of the courses in their region/branch through the website of the Committee <https://idtc.icai.org/> in the tab 'Upcoming Events'.

I end my message with an assurance that I will continue to serve the members and the profession to the best of my abilities.

Yours sincerely,

CA. Sushil Kumar Goyal

Chairman

GST & Indirect Taxes Committee

The Institute of Chartered Accountants of India

DOCTRINE OF BINDING PRECEDENTS AND ITS ESCAPE IN TAX LAWS

In this article author has tried to explain the doctrine of binding precedents of judicial decisions to understand its scope and use in tax litigation. Not everything said in a judgement has binding nature. So, reader of a judgement needs to carefully segregate the “*obiter dictum*” and the “*ratio decidendi*”. Judicial decisions are binding based on various factors such as jurisdiction, bench size and hierarchy of the forum. However, it is not absolute binding in all situations. This article is divided into two Parts, Part A deals with doctrine of *binding precedent* and its related concepts and Part B deals with the escape route using doctrine of *per incuriam* and *sub-silentio*.

PART A: WHAT IS BINDING PRECEDENT

In any judicial/quasi-judicial decision the authority relies on the precedent which means they use any earlier law or decision to decide the matter before them. As per the doctrine of precedent, all lower Courts, Tribunals and authorities exercising judicial or quasi-judicial functions are bound by the decisions of the High Court within whose territorial jurisdiction these Courts, Tribunals & authorities' functions¹.

Binding precedent of any judicial decision is based on doctrine of “*Stare decisis*”. The doctrine of “*Stare decisis*” is derived from Latin phrase “*Stare Decisis et non quieta movere*” which implies “to stand by decisions and not to disturb settled matters”. If any law is declared by the competent court, it should not be disrespected and should be followed. The doctrine of binding precedent has merit of promoting certainty and consistency in judicial decisions and enables an organic development of law 'besides providing assurance to an individual as to the consequence of transaction².'

Not everything said in a judgement has binding precedent. While reading any judgement, we need to identify the “*obiter dictum*” and “*ratio decidendi*”. It is the *ratio decidendi* which has binding nature.

WHAT IS OBITER DICTUM?

Obiter dictum or **obiter dicta** is a Latin phrase meaning “other things said” i.e., a remark in a judgment that can be construed to be said in passing. The Wharton's Law Lexicon (14th Ed. 1993) defines term “*obiter dictum*” as an opinion not necessary to a judgment; an observation

as to the law made by a judge in the course of a case, but not necessary to its decision, and therefore of no binding effect; often called as *obiter dictum*, a remark by the way.

Using the American Jurisprudence, Hon'ble Supreme Court in the case of *Arun Kumar Aggarwal v. State of Madhya Pradesh* reported in AIR 2011 SC 3056, explained “*obiter dicta*”, as follows:

“21.The expression *obiter dicta* or *dicta* has been discussed in American Jurisprudence 2d, Vol. 20, at pg. 437 as thus:

“74. - *Dicta* Ordinarily, a court will decide only the questions necessary for determining the particular case presented. But once a court acquires jurisdiction, all material questions are open for its decision; it may properly decide all questions so involved, even though it is not absolutely essential to the result that all should be decided. It may, for instance, determine the question of the constitutionality of a statute, although it is not absolutely necessary to the disposition of the case, if the issue of constitutionality is involved in the suit and its settlement is of public importance. An expression in an opinion which is not necessary to support the decision reached by the court is *dictum* or *obiter dictum*.

“*Dictum*” or “*obiter dictum*” is distinguished from the “*holding of the court* in that the so-called “*law of the case*” does not extend to mere *dicta*, and mere *dicta* are not binding under the doctrine of *stare decisis*. As applied to a particular opinion, the question of whether or not a certain part thereof is or is not a mere *dictum* is sometimes a matter of argument. And while the terms “*dictum*” and “*obiter dictum*” are generally used synonymously with regard to expressions in an opinion which are not necessary to support the decision, in connection with the doctrine of *stare decisis*, a distinction has been drawn between mere *obiter* and “*judicial dicta*,” the latter being an expression of opinion on a point deliberately passed upon by the court.”

Further at pg. 525 and 526, the effect of *dictum* has been discussed:

“190. Decision on legal point; effect of *dictum* ... In applying the doctrine of *stare decisis*, a distinction is made between a *holding* and a *dictum*. Generally *stare decisis* does not attach to such parts of an opinion of a court which are mere *dicta*. The reason for distinguishing a *dictum* from a *holding* has been said to be that a question

¹ CIT v. Thana Electricity Supply Ltd. (1994) 206 ITR 727 (Bom).

² UOI v. Raghuraj Singh 178 ITR 548 (SC)

actually before the court and decided by it is investigated with care and considered in its full extent, whereas other principles, although considered in their relation to the case decided, are seldom completely investigated as to their possible bearing on other cases. Nevertheless courts have sometimes given dicta the same effect as holdings, particularly where “judicial dicta” as distinguished from “obiter dicta” are involved.”

To understand obiter dictum further, following judgements can be referred to:

1. *K. Jayarama Iyer v. State of Hyderabad* [AIR 1954 Hyd. 56]
2. *CIT v. Madhukant M. Mehta* [[1981] 132 ITR 159 (Guj.) and *CIT v. Smt. T.P. Sidhwa* [1982] 133 ITR 840 (Bom.)]

WHAT IS RATIO DECIDENDI?

Ratio decidendi is Latin for “rationale for the decision. *Ratio decidendi* means the reason of decision or reason for deciding. A decision is an authority for what it actually decides and what is of essence in a decision is its ratio and not what logically follows from various observations made while deciding the case³.

⁴To be the ratio decidendi amongst others, the minimum requirements are:

- (1) that the matter was directly at issue,
- (2) that the issue needs to have been decided, and
- (3) the matter has been decided by giving reasons.

HIERARCHY OF JUDICIAL PRECEDENTS

1. Supreme Court of India

Hon’ble Supreme Court of India exercises jurisdiction over all India. The law declared by the Supreme Court shall be binding on all courts within the territory of India⁵. All courts mean courts subordinate to the Hon’ble Supreme Court⁶. Hon’ble Supreme Court has power to overrule its judgment if it deems fit considering changing legal, social and economical environment.

2. High Courts

The power of High Court is limited to the territory over which it exercises jurisdiction. According to Article 227 of the Constitution of India, every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it

exercises jurisdiction. Decision of one High Court is not binding on another High Court; however, it has great persuasive value. A High Court when not following another High Court should record its dissent along with the reasons therefore⁷.

However, position relation to constitutional validity of central law is different. Writ jurisdiction of any High Court under article 226(2) relating to constitutionality of any law made by the Parliament is binding throughout India. Hon’ble Supreme Court in the case of *Kusum Ingots And Alloys Ltd. v. Union of India* [AIR 2004 SC 2321] made it clear and held:

“The court must have the requisite territorial jurisdiction. An order passed on writ petition questioning the constitutionality of a Parliamentary Act whether interim or final keeping in view the provisions contained in Clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act.”

3. Tribunals

Any judgement of Division bench or Three-member bench is binding on one member bench of the tribunal. Further, decision of Special Bench is binding on all the benches of the tribunal. One bench cannot differ from the view of another Co-ordinate Bench⁸. If the co-ordinate bench is not agreeing to the decision of earlier bench, it should refer matter to the larger bench⁹. Tribunal is bound by the decision of jurisdictional High Court and can’t ignore the decision of the jurisdictional High Court on the ground that it did not take into consideration a particular provision¹⁰.

EFFECT OF APPEAL FILED AT HIGHER AUTHORITY AGAINST THE ORDER OF LOWER AUTHORITY ON BINDING PRECEDENT

It is not permissible for the authorities below to ignore the decision of the higher forum on pretext that an appeal is filed in the Supreme Court, which is pending or that steps are to be taken to file an appeal¹¹. Assessing Officer is bound by decision of Tribunal-Pendency of an appeal would not amount to an order of stay¹². Merely filing of an SLP would not make the order of High Court bad in law or give a license to the revenue to proceed on the basis that the order is stayed and/or in abeyance¹³.

³ *Nav Nirman (P.) Ltd. v. CIT* [1988] 174 ITR 574 (MP).

⁴ *Industrial Credit and Investment Corporation of India Ltd. v. Dhanesh D. Ruparelia* [2000] 99 Comp. Cas. 181 (Bom.).

⁵ Article 141 of the Constitution

⁶ *Bengal Immunity Co. v. State of Bihar* [AIR 1955 (SC) 661]

⁷ *Pradip J. Mehta v. CIT* (2008) 300 ITR 231(SC)

⁸ *Mercedes Benz India Pvt. Ltd. v. UOI* (2010)252 ELT 168 (Bom)

⁹ *CIT v. Goodlass Nerolac Paints Ltd.* 188 ITR 1 (Bom), *UOI v. Paras Laminates Pvt. Ltd.* (1990) 186 ITR 722 (SC).

¹⁰ *Dy. CIT v. Gujarat Ambuja Cements Ltd.* (2011) 57 DTR 179 (Mum.)(Trib.)

¹¹ *Addl. CIT v. Royal Bank of Scotland N. V.* (2011) 130 ITD 305 (Kol.)(Trib.)

¹² *LIC Employees Co-Operative Bank Ltd. v. ACIT* (2018) 408 ITR 287 (Mad) (HC)

¹³ *PCIT v. Associated Cable Pvt. Ltd.* (Bom.)(HC), (ITXA. No. 293 of 2016 dt.03.08.2018)

WHEN PRECEDENT LOSE ITS BINDING FORCE

¹⁴It may be noticed that precedent ceases to be a binding precedent -

- (i) if it is reversed or overruled by a higher court,
- (ii) when it is affirmed or reversed on a different ground,
- (iii) when it is inconsistent with the earlier decisions of the same rank,
- (iv) when it is *sub silentio*, and
- (v) when it is rendered *per incuriam*.

Part B: ESCAPE FROM BINDING PRECEDENT

It is not open for an authority of lower status to escape the doctrine of binding precedent and pass order. However, the doctrine of binding precedent can be escaped if the judgement suffers either from “*per incuriam*” or “*sub-silentio*”.

DOCTRINE OF PER INCURIAM

Hon'ble Supreme Court in *Government of A. P. and Another v. B. Satyanarayana Rao (dead) by LRs. and Others (2000) 4 SCC 262* observed as under:

“The rule of per incuriam can be applied where a court omits to consider a binding precedent of the same court or the superior court rendered on the same issue or where a court omits to consider any statute while deciding that issue.”

In case of *M/S Hyder Consulting (UK) Ltd vs Governor State of Orissa, CIVIL APPEAL No. 3148 of 2012* decided on 25/11/2014, Hon'ble Supreme Court elaborated the concept of per incuriam as follows:

“The latin expression per incuriam literally means ‘through inadvertence’. A decision can be said to be given per incuriam when the Court of record has acted in ignorance of any previous decision of its own, or a subordinate court has acted in ignorance of a decision of the Court of record. As regards the judgments of this Court rendered per incuriam, it cannot be said that this Court has “declared the law” on a given subject matter, if the relevant law was not duly considered by this Court in its decision. In this regard, I refer to the case of State of U.P. v. Synthetics and Chemicals Ltd., (1991) 4 SCC 139, wherein Justice R.M. Sahai, in his concurring opinion stated as follows:

40. ‘Incuria’ literally means ‘carelessness’. In practice per incuriam appears to mean per ignoratium. English courts have developed this principle in relaxation of the rule of stare decisis. The ‘quotable in law’ is avoided and ignored if it is rendered, ‘in ignoratium of a statute or other binding authority’. ...”

The Court is not bound to follow a decision of its own if it

¹⁴ *CIT v. B.R. Constructions [1993] 202 ITR 222*

¹⁵ *The Rule in Young v. Bristol Aeroplane Co., Ltd. 1944 KB 718 Young v. Bristol Aeroplane Co., Ltd.*

¹⁶ *B. Sharma Rao v. Union Territory of Pondicherry, 1967 AIR 1480*

is satisfied that the decision was given *per incuriam*, for example, where a statute or rule having statutory effect which would have affected the decision was not brought to the attention of the earlier Court¹⁵.

In simple terms when any law or judgement on the subject is not brought to the attention of the court and court passes its judgement, the said judgement falls in the doctrine of *per incuriam*.

DOCTRINE OF SUB-SILENTIO

When a particular point of law involved in the decision is not perceived by the court such decision comes under the ambit of doctrine of *Sub-silentio*. Professor P. J. Fitzgerald, editor of the *Salmond on Jurisprudence*, 12th edn, explains the concept of sub-silentio with this illustrative example:

“The court may consciously decide in favour of one party because of point A, which it considers and pronounces upon. It may be shown, however, that logically the court should not have decided in favour of the particular party unless it also decided point B in his favour.; but point B was not argued or considered by the court. In such circumstances, although point B was logically involved in the facts and although the case had a specific outcome, the decision is not an authority on point B. Point B is said to pass sub silentio.”

In the English law the best illustration to demonstrate Sub-silentio is the case of *Lancaster Motor Co. Ltd v. Bremith Ltd, [1941] 1 KB 675*, wherein the court has observed that it is not bound by the decision of earlier court because the order was passed without proper deliberation and without argument, without reference to the crucial words of the rule and any citation of authority.

Hon'ble Supreme Court of India in the case of *Municipal Corporation of Delhi v. Gurnam Kaur, 1989 AIR 38*, after discussing English law in detail held precedents *sub-silentio* and without argument are of no moment.

It is trite to say that a decision is binding not because of its conclusion but in regard to its ratio and the principle laid down therein¹⁶.

CONCLUSION

Binding precedent of judicial decision is for bringing consistency in legal process. However, such decision must be in the light of all legal provisions and fully argued before the court. The Judges interpret the statute and not the judgements. They interpret words of the statute and their words should not be read as statute. Doctrine of *per incuriam* and *sub-silentio* are heavily relied as defence against doctrine of *Stare decisis*.

Contributed by CA. Bineet Sundriyal

JUDICIAL PRONOUNCEMENTS

1. Export of Services – Intermediary Services

Netgear Technologies India (P) Ltd. WP No. 10704 of 2022 dated 18-05-2023 – Delhi

The question whether an entity is an intermediary will have to be determined on the basis of actual work performed and hence remanded back to adjudicating authority.

2. Provisional attachment of bank account or property

Sidhivinayak Chemtech (P) Ltd. W.P.(C) No. 17547 of 2022 dated 16-05-2023 – Delhi

Formation of opinion cannot be a mere subjective satisfaction of the Commissioner empowered to take measures under section 83 of the CGST Act but must necessarily be an opinion, which is formed on credible material having live link with formation of the opinion.

3. Online or Physical Game – Rummy

Gameskraft Technologies (P) Ltd. WP No. 19570 of 2022 Dated 11-05-2023 – Karnataka

Rummy is substantially and preponderantly a game of skill, not chance, whether played with stakes or without stakes, and is not gambling. Entry 6 in Schedule III to the CGST Act taking actionable claims out of the purview of supply of goods or services would clearly apply to games of skill and only games of chance such as lottery, betting and gambling would be taxable.

4. Show Cause Notice (SCN) issued without opportunity of being heard

Durge Metals WP No. 6124 of 2020 dated 10-05-2023 – Madhya Pradesh

The SCN notice issued to the petitioner was vague as to the extent to which it did not communicate the relevant information and material, thereby making it impossible for the applicant to respond to the same and therefore the dismissal of the appeal was vitiated in law. Section 75 of the CGST Act, 2017 itself provides an assessee with a reasonable opportunity and any deficiency in that regard vitiates the end result.

5. Recovery of Tax without issuance of Show Cause Notice (SCN)

Nagarjuna Agro Chemicals (P) Ltd. WP No. 336 of 2023 dated 15-05-2023 – Allahabad

Revenue failed to issue any notice for recovery of short payment of tax and initiated recovery proceeding under section 74. Merely because no notices were issued under section 61 of the CGST Act, 2017, it would not mean that issues of short payment of tax could not be dealt with under section 74 as exercise of such power was not dependent upon issuance of notice under

section 61. Therefore, arguments of petitioner were repelled, and proceedings were considered valid. Petitioner was permitted to prefer such appeal within two weeks from the date of order and in event such an appeal was filed, the same shall be entertained without raising any objection with regard to limitation.

6. Limitation period for refund claim of tax paid under wrong head

Gajraj Vahan (P) Ltd. WP No. 1801 of 2021 dated 10-05-2023 - Jharkhand

Circular bearing No. 162/18/2021-GST, dated 25.9.2021 was issued by the CBIC on the subject matter where in CBIC had extended a benevolent provision for extension of limitation of refund in case of wrong deposit.

7. Maintainability of Writ Petition

Malik Khan WP No. 2785 of 2023, dated 03-05-2023 - Rajasthan

Assessee had not filed appeal before appellate authority within prescribed limitation (3 months) and further extension of 30 days by appellate authority, had directly filed writ petition almost after eight months of expiry of limitation period. Therefore, writ petition filed by assessee challenging impugned order was not maintainable and accordingly, was to be dismissed.

8. Return of Input Tax Credit availed

Gajrar Singh Ranawat WP No. 5141 of 2023, dated 02-05-2023 – Rajasthan

An order for repayment of input tax credit availed by petitioner was passed. The assessee argued that revenue was ignoring facts that GST on supplied items had already been paid by suppliers. Revenue admitted that said order was issued without regard to payment of GST by suppliers. Impugned order passed by revenue was quashed and set aside. The revenue was directed to pass fresh order after providing an opportunity of being heard to the petitioner.

9. Temple providing accommodation services (Rooms on Rent) to pilgrims

Nandini Ashram Trust AAR No. GUJ/GAAR/R/2023/18 – Gujarat AAR

Applicant, registered as a charitable/religious trust under Income-tax Act, is providing accommodation to pilgrims who visit Ambaji Temple and rent is collected at rate of Rs. 1000 per day. Applicant claims exemption under S. No. 13 of N. No. 12/2017 – CTR.

It was observed that there is nothing on record to substantiate the claim that all the accommodation granted was to the pilgrims visiting the said temple. The trust managing that temple has no ownership of

the property. In addition, rooms were also not located within the precincts of said temple. Hence applicant is not eligible for exemption.

10. Supply of right to use open car parking space

Eden Real Estates Private Limited AAAR No. 01/ WBAAAR/Appeal/2023, dated 20-04-2023 West Bengal AAAR

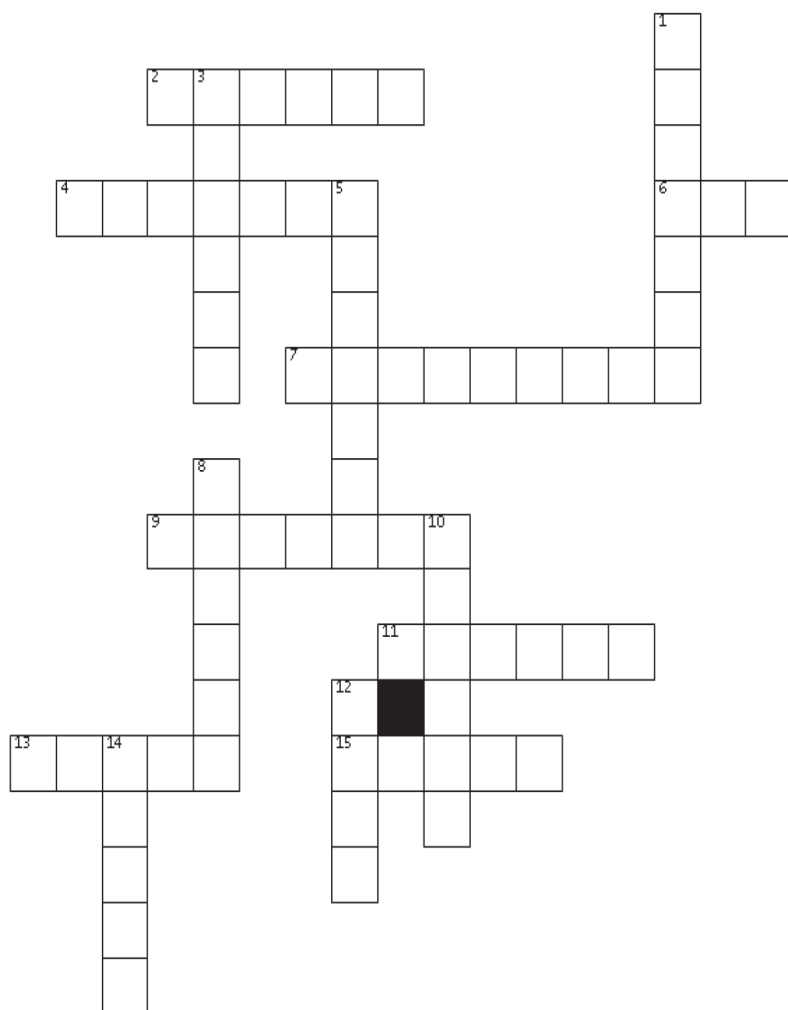
Appellant charges for right to use of car/two-wheeler vehicle parking space along with the sale of under constructed apartments to its prospective buyers. Appellant seeks ruling whether such supply is composite supply or distinct supply.

It was upheld that it transpires from plain reading of the RERA that though a sanctioned plan requires inclusion of parking layout, an uncovered parking space such as open parking area is not included in the definition of “garage” but falls within the meaning of “common

area”. Now the “common area” belongs to all apartment owners jointly or the owners’ association when formed and no portion can be sold/transferred/leased out to any person by the promoter. So, in the instant case the sanctioned plan may have open parking spaces, but the Appellant has no right to transfer ownership or lease out or allow right to use of the said spaces to allottees. So it is clear that the consideration collected from allottees for right to use of open parking spaces will not form a part of value of composite supply as prayed for by the Appellant. The amount charged by the appellant for right to use of car/two-wheeler vehicle parking space, though not permissible as per RERA, constitutes a separate supply under the GST Act and the appellant is therefore liable to pay tax @ 18% on such supply.

Contributed by CA. Ashit Shah

CROSSWORD



ACROSS

- 2. Place of business
- 4. Family excludes (if not dependent)
- 6. Authority for deciding on anti-profiteering issues from December 1, 2022
- 7. Exports under GST
- 9. Time of supply under reverse charge
- 11. E-way bill not required for transportation of _____
- 13. Game of skill as per Karnataka High Court
- 15. Identification of a registered person

DOWN

- 1. Input tax credit on pipelines laid outside the factory premises
- 3. Payment of redemption fine in lieu of confiscation
- 5. Tax is payable under _____ charge on renting of a residential house by a registered person to a registered company for its director
- 8. Not leviable to GST
- 10. Application for revocation of cancellation of registration must be filed within _____ days from service of cancellation order
- 12. Tax that would be leviable when nature of supply is not known while receiving advance for services
- 14. Supply of pencil and rubber as one package

ABSOLUTE VS. CONDITIONAL EXEMPTION UNDER GST LAWS: A POINT OF VIEW

Introduction

The topic assumes importance in the GST regime as it has a direct bearing on the options available to a registered person with respect to input tax credit among other commercial considerations. For the purpose of this topic, the brief focus will be on services and those governed by *Notification No. 12/2017-CT (R) dated 28-6-2017* which is, by the way, an exemption notification made applicable for services. In terms of the said notification, services have been listed under various serial numbers and nil rate has been prescribed. There are conditions prescribed for certain entries.

Types of Exemptions - Absolute vs. Conditional

An exemption under the taxation laws can be broadly categorized into two types namely, absolute and conditional. The absolute exemption is one where there are no conditions attached for claiming the exemption. Once the taxpayer falls under the ambit of absolute exemption, he need not satisfy any further conditions to enjoy the exemption.

On the other hand, there are certain exemptions which are available only upon satisfaction of conditions attached to it. In this situation, a taxpayer apart from falling under the ambit of exemption entry should additionally satisfy certain conditions to be eligible for claim of exemption. Such exemptions are generally called as 'conditional exemptions'.

The core issue in this article is to understand, whether a taxpayer under the current regime of GST law, can consciously ignore the absolute exemption and pay tax at his choice. In other words, whether there is an obligation on the taxpayer to mandatorily claim the absolute exemption or he is free to ignore the absolute exemption and continue to pay tax on the particular output supply.

Position under Current vs. Erst while Legislations

Before we proceed further on the discussion of the above core issue, a look at the statutory provisions is necessitated both under the current legislations and erstwhile legislations. The relevant section is Section 11 of the Central Goods and Services Tax Act, 2017 (for brevity 'CGST Act') and Section 5A of the Central Excise Act, 1944 (Central Excise Act).

Under the CGST Act, the power of exemption could be traced to Section 11(1) of the Act which to the extent relevant for this discussion is extracted below:

"11 (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt

generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification."

In contrast, the relevant provision under the erstwhile law relating to the Central Excise Act, namely, Section 5A(1) is also extracted below:

"5A (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after removal) as may be specified in the notification, excisable goods of any specified description from the whole or any part of the duty of excise leviable thereon."

In addition to the above, it is necessary to look at Section 5A(1A) of the Central Excise Act which reads as follows:

"(1A) For the removal of doubts, it is hereby declared that where an exemption under sub-section (1) in respect of any excisable goods from the whole of the duty of excise leviable thereon has been granted absolutely, the manufacturer of such excisable goods shall not pay the duty of excise on such goods."

From the provisions of Section 5A(1A), it would be evident that once there is an exemption notification without conditions (absolute), then the manufacturer does not have a choice but to take the exemption. However, there is no such provision under the service tax law.

Hence, only under the excise law, there exists a provision which mandates the manufacturers to avail the exemption without any conditions attached. In other words, the manufacturers under the central excise law do not have an option to ignore absolute exemption notification. It is mandatory for them to avail the exemption.

A provision similar to that of Section 5A(1A) of the Central Excise Act under the CGST Act would have put at rest the present issue raised in this article. However, the same is not the situation. Section 11 of the CGST Act has an explanation which deals with the availment of absolute exemption in the following words:

"Explanation: For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both."

A comparison between the Explanation to Section 11 under the CGST Act and Section 5A(1A) of the Central Excise Act reveals that, while the central excise provision with regard to 'absolute' exemption had employed the words '*shall not pay the duty of excise on such goods*', the corresponding provision in terms of the Explanation to Section 11 of the Act has employed the words "*shall not collect the tax, in excess of the effective rate*".

The position under central excise is clear. The manufacturer who falls under the ambit of the absolute exemption is obliged not to pay duty on such goods. However, under the CGST Act, it is stated that supplier shall not collect tax, in excess of the effective rate.

The reason for this change in terminology is to be traced to the taxable event under the Excise and GST legislations. The former being a tax on manufacture while the latter being a tax on supply. Also, there may be instances under the CGST Act, where there can be scope for absolute exemptions with nil rate of tax or partial rate of tax. In cases, where there is absolute exemption by way of nil rate, the condition mentioned under explanation to Section 11 can be said to be satisfied, when the supplier does not collect any tax more than effective rate of tax, which in this case would be 'nil'. In cases, where the exemption from payment of tax with respect to rate is only partial, then the condition is said to be satisfied if the supplier does not collect tax in excess of the said effective rate of tax.

For better understanding of the above, let us take certain examples. Let us assume, the services provided by supplier 'A' are normally taxed at 18%. However, by virtue of absolute exemption, the Government has prescribed nil rate. Hence, 'A' cannot collect any tax from the recipient. In such a situation, the Explanation can be said to be satisfied, by stating that 'A' cannot collect tax in excess of effective rate of tax, that is 'nil'. Let us assume, the services provided by supplier 'B' are normally taxed at 18%. However, the services are exempted by notification to the extent of 9%. Hence, 'B' could be said to have satisfied the explanation to Section 11, if he ensures, he is not collecting tax in excess of 9%.

Having now understood, the absolute vs. conditional aspect of the notification, let us proceed to examine, how an exemption granted vide a particular entry in *Notification No 12/2017 (supra)* should be construed as 'absolute' or 'conditional'.

Analysis on Identification of Absolute Entry in Notification No 12/2017

The distinction between absolute and conditional exemption is necessary to decide as to whether the taxpayer has an option to pay tax on the entire output service ignoring the exemption or he has to compulsorily adopt the exemption. The effect of these alternative courses would be obvious in as much as if there is absolute exemption, the input tax

credit cannot be taken or will have to be proportionately reversed, as the case may be. In the case of conditional exemption, the taxpayer could ignore the same and charge full tax on output service and take the entire input credit.

We have discussed in above paragraphs as to in what instances the explanation to Section 11 of the CGST Act will be said to be satisfied. In continuation to such discussion, can it be said that if the supplier does not collect tax but bears the full incidence of tax himself, then it would mean that he has satisfied the explanation to Section 11. If yes, then the supplier can bear the burden of tax by availing input tax credit and pay the net tax liability to the Government. Since, he has not collected any tax from the customer, it can also be argued that he has satisfied the explanation to Section 11.

To answer the above, it appears that the first exercise would be to examine the relevant serial number and decide the scope of the exemption as to whether it is 'absolute' or 'conditional' and then in case of 'absolute' exemption, the condition of non-collection of tax in excess of the rate would also apply.

It is the combination of both absolute exemption and conditional exemption provided in the same *Notification No.12/2017* that leads to this exercise of interpretation of a serial number in the said notification as providing for absolute or conditional exemption.

That then takes us to the question as to how to decide whether in respect of a serial number in the said *Notification No. 12/2017*, the supplier has the choice to forego the exemption and charge the full rate and avail input tax credit. One obvious exercise would be to trace back to the Chapter Heading given in the 'Scheme of Classification of Services for purposes of GST' which is a modified version of the UN Central Product Classification and the Explanatory Notes to the said scheme.

The next question to be asked is whether the entire service category as explained in the said scheme and as understood in the trade is covered by the exemption or whether it is restricted to only a segment or part of the said category of service.

In the context of *Notification No.- 12/2017*, there is a room to assess the nature of the exemption and examine the legislative background under the erstwhile law. The exemption available there under are to be examined to decide whether the option exists to say that the entry in a given case in the said Notification is not an absolute exemption but only an option which may or may not be availed.

Such an optional segment cannot be subjected to the rigors of an absolute exemption with the attendant condition under the Explanation to Section 11 of the Act. This is particularly so when the words in the serial number

provide for exemption only with respect to a small portion of the segment of the service and not the entire service segment.

Conclusion:

Hence, it can be said that where an entry in the exemption notification pertains to the entire segment of service, then the said entry can be said to be absolute exemption. On the other hand, if the entry is only dealing with part of the entire gamut of service, then it can be said to be optional.

For example, Entry 25 of *Notification No 12/2017* deals with 'transmission or distribution of electricity by an electricity transmission or distribution utility'. This entry can be said to be absolute because the entire gamut of services is covered, and no conditions are prescribed (*Refer Torrent Power Limited vs. Union of India 2019 (1) TMI 1092 (Gujarat High Court)*).

If one looks at Entry 34, which deals with 'services by an

acquiring bank, to any person in relation to settlement of amount up to Rs 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service', it can be seen that this entry carves out only a specific transaction from the entire gamut of services, hence, this can be said to be optional and not absolute (For detailed analysis of the "credit card payment services" as understood by the trade, reference could be made to *Standard Chartered Bank & Others vs. CST, Mumbai – I 2015 (8) TMI 686 - CESTAT DELHI (LB)*).

However, there can be an alternative view that the exemption extended vide an entry in *Notification No. 12/2017* would be construed as conditional when the same is subject to the conditions given against the said entry. The matter is thus, open for discussion till such time a final view emerges in this regard.

Contributed by CA. S. Thirumalai & CA. Sri Harsha

AMNESTY SCHEME AVAILABLE UPTO 30.06.2023

1.	Reduction/waiver of late fee if returns in Forms GSTR-4, GSTR-9 & GSTR-10 of earlier periods are filed on or before 30.06.2023	
	Particulars	Reduced late fee
	Form GSTR-4 (Return for composition supplier) for quarters falling between the period July 2017 to March 2019 or the Financial Year from 2019-20 to 2021-22, when filed between 01.04.2023 and 30.06.2023 <i>(Notification No. 02/2023-CT dt. 31.03.2023)</i>	Nil, if no GST is payable OR Rs. 500, for others [Rs. 250 each for CGST & SGST]
	Form GSTR-9 (Annual Return) for FY 2017-18, 2018-19, 2019-20, 2020- 21 and 2021-22, when filed between 01.04.2023 and 30.06.2023 <i>(Notification No. 07/2023-CT dt. 31.03.2023)</i>	Rs. 20,000 [Rs. 10,000 each for CGST & SGST]
	Form GSTR-10 (Final Return) when filed between 01.04.2023 and 30.06.2023 <i>(Notification No. 08/2023-CT dt. 31.03.2023)</i>	Rs. 1,000 [Rs. 500 each for CGST & SGST]
2.	Extension of time limit for applying for revocation of cancellation of registration	
	Registered persons whose registration was cancelled on or before 31.12.2022 due to non-filing of returns u/s 29(2)(b) or 29(2)(c) have been allowed to file application for revocation of cancellation of registration upto 30 th June, 2023 after furnishing all the returns due upto the effective date of cancellation along with payment of due tax, interest, penalty and late fees thereon. <i>(Notification No. 03/2023-CT dt. 31.03.2023)</i>	
3.	Deemed withdrawal of assessment orders issued under section 62 of the CGST, Act (Assessment of non-filers of returns)	
	Best judgement assessment orders issued on or before 28.02.2023 for non-furnishing of returns in form GSTR-3B will be deemed to be withdrawn if returns are filed on or before 30.06.2023 along with due interest u/s 50(1) and late fees u/s 47 thereon. <i>(Notification No. 06/2023-CT dt. 31.03.2023)</i>	

GST UPDATES

1) E-invoicing applicability limit reduced from Rs. 10 crores to Rs. 5 crores from 1st August 2023

The threshold limit of aggregate turnover for the applicability of e-invoicing provisions has been reduced from Rs 10 crores to Rs. 5 crores. In other words, registered persons having an aggregate turnover of more than Rs. 5 crores in any preceding financial year from 2017-18 onwards will be liable to generate e-invoice. The said amendment will be effective from 01.08.2023.

Notification No. 10/2023 – CT dated 10.05.2023.

Note: E-invoicing is not mandatory for following registered persons:

- (i) Government department
- (ii) Local authority
- (iii) SEZ unit
- (iv) Insurer/Banking company/Financial institution, including a NBFC
- (v) GTA
- (vi) Passenger transportation service provider
- (vii) Supplier providing admission to exhibition of cinematograph films in multiplex screens

2) Extension of due date of Forms GSTR-1, GSTR-3B and GSTR-7 for the State of Manipur

The due dates of filing the following forms for the month of April, 2023 have been extended to 31st May, 2023 for registered persons, whose principal place of business is in the State of Manipur:

S. No.	Forms	Due Date	Extended Due Date
1.	GSTR-1 (Statement of outward supplies)	11th May, 2023	31st May, 2023
2.	GSTR-3B (Monthly/ Quarterly return)	20th May, 2023	31st May, 2023
3.	GSTR-7(return by a registered person required to deduct tax at source under section 51)	10th May, 2023	31st May, 2023

Notification No. 11/2023 – CT dated 24.05.2023, Notification No. 12/2023 – CT dated 24.05.2023 and Notification No. 13/2023 – CT dated 24.05.2023

3) Guidelines for Special All-India Drive against Fake Registrations

The Central and State Tax administrations have decided

to launch a Special Drive on All-India basis to detect suspicious/ fake registrations and to conduct requisite verification for timely remedial action to prevent any further revenue loss to the Government. Accordingly, the following guidelines have been issued by the CBIC:

- a) **Period of special drive:** 16th May 2023 to 15th July 2023
- b) **Identification of fraudulent GSTINs:** Based on detailed data analytics and risk parameters, GSTN will identify such fraudulent GSTINs for State and Central Tax authorities and will share the details of such identified suspicious GSTINs, jurisdiction wise, with the concerned State/ Central Tax administration (through DGARM in case of Central Tax authorities) for initiating verification drive and conducting necessary action subsequently. This may also be supplemented by the officers with analytical tools like BIFA (Business Intelligence & Fraud Analytics), ADAIT (Advanced Analytics in Indirect Taxation), NIC Prime, E-Way analytics, etc, as well as through human intelligence, Aadhar database, other local learnings and the experience gained through the past detections and modus operandi alerts.
- c) **Information Sharing Mechanism:** A nodal officer shall be appointed immediately by each of the Zonal CGST Zone and State to ensure seamless flow of data and for coordination with GSTN/ DGARM and other Tax administrations. The Nodal officer of the State/ CGST Zone shall ensure that the data received from GSTN/ DGARM/ other tax administrations is made available to the concerned jurisdictional formation within two days positively.
- d) **Action to be taken by field formations:**
 - i) On receipt of data from GSTN/DGARM through the Nodal Officer, a time bound exercise of verification of the suspicious GSTINs shall be undertaken by the concerned jurisdictional tax officer(s). If, after detailed verification, it is found that the taxpayer is non-existent and fictitious, then the tax officer may immediately initiate action for suspension and cancellation of the registration of the said taxpayer in accordance with the provisions of section 29 of CGST Act, read with the rules thereof.
 - ii) The matter may also be examined for blocking of input tax credit in Electronic Credit Ledger as per the provisions of Rule 86A of CGST Rules without any delay.
 - iii) The details of the recipients to whom the input tax credit has been passed by such non-existing taxpayer may be identified through the

details furnished in FORM GSTR-1 by the said taxpayer. Where the recipient GSTIN pertains to the jurisdiction of the said tax authority itself, suitable action may be initiated for demand and recovery of the input tax credit wrongly availed by such recipient on the basis of invoice issued by the said non-existing supplier, without underlying supply of goods or services or both. In cases, where the recipient GSTIN pertains to a different tax jurisdiction, the details of the case along with the relevant documents/ evidences, may be sent to the concerned tax authority, as early as possible.

- iv) Action may also be taken to identify the masterminds/ beneficiaries behind such fake GSTIN for further action, wherever required, and also for recovery of Government dues and/ or provisional attachment of property/ bank accounts, etc. as per provisions of section 83 of CGST Act. Further, during the investigation/ verification, if any linked suspicious GSTIN is detected, similar action may be taken/ initiated in respect of the same.

Instruction No. 01/2023-GST dt. 04.05.2023

4) Standard Operating Procedure (SOP) for scrutiny of returns for FY 2019-20 and onwards

Instruction No. 02/2022- GST dated 22nd March 2022 was issued to provide a SOP for scrutiny of returns under section 61 of the CGST Act as an interim measure till the time a Scrutiny Module for online scrutiny of returns is made available on the ACES-GST application. DG Systems has now developed functionality “Scrutiny of Returns”, containing the online workflow for scrutiny of returns in the CBIC ACES-GST application. The GSTINs selected for scrutiny for the Financial Year 2019-20 have also been made available on the scrutiny dashboard of the proper officers on ACES-GST application. In view of this, the SOP for scrutiny of returns provided in the *Instruction No. 02/2022-GST dated 22nd March 2022* stands modified to the following extent in respect of scrutiny of returns for financial years 2019-20 and onwards:

A) Selection of returns for scrutiny

The Directorate General of Analytics and Risk Management (DGARM) will select the GSTINs registered with Central tax authorities, whose returns are to be scrutinized for a financial year, based on identified risk parameters. The details of GSTINs selected for scrutiny for a financial year will be made available by DGARM through DG Systems on the scrutiny dashboard of the concerned proper officer of Central Tax on ACES-GST application. The GSTIN in respect of which risk has been identified, the amount of tax/ discrepancy involved

(i.e., likely revenue implication) will be shown on the scrutiny dashboard of the proper officer.

B) Scrutiny Schedule

The proper officer, with the approval of the divisional Assistant / Deputy Commissioner, shall finalize a month-wise scrutiny schedule in respect of GSTINs selected for scrutiny. The proper officer shall conduct scrutiny of returns pertaining to a minimum of 4 GSTINs per month. Scrutiny of returns of one GSTIN shall mean scrutiny of all returns pertaining to a financial year for which the said GSTIN has been identified for scrutiny.

C) Process of scrutiny by the proper officer

- The Proper Officer shall scrutinize the returns and related particulars furnished by the registered person to verify the correctness of returns with the help of various returns and statements furnished by the registered person and data/ details made available through various sources like DGARM, ADVAIT, GSTN, E-Way Bill Portal, etc.
- At this stage, the proper officer is expected to rely upon the information available with him on records. As far as possible, scrutiny of returns should have minimal interface between the proper officer and the registered person and, there should normally not be any need for seeking documents/ records from the taxpayers before issuance of FORM GST ASMT-10.
- The proper officer shall issue a notice to the registered person in FORM GST ASMT-10 through the scrutiny functionality on ACES-GST application informing him of the discrepancies noticed and seeking his explanation thereto. The notice in FORM ASMT-10 issued through scrutiny functionality on ACES-GST application shall be communicated by the system to the concerned registered person through common portal. As far as possible, the proper officer shall quantify the amount of tax, interest and any other amount payable in relation to such discrepancies after considering payment, if any, already made by the registered person through Form DRC-03. The proper officer shall mention the parameter-wise details of the discrepancies noticed and shall also upload the worksheets and annexures, if any. A single compiled notice in FORM GST ASMT-10 shall be issued to the taxpayer for all returns pertaining to the financial year under scrutiny.
- The registered person may accept the discrepancy communicated to him in ASMT-10 and pay the tax, interest and any other amount arising from such discrepancy and inform the same or may furnish an explanation for the

discrepancy in FORM GST ASMT-11 to the proper officer.

- If the explanation furnished by the registered person or the information submitted in respect of acceptance of discrepancy and payment of dues is found to be acceptable by the proper officer, he shall conclude the proceedings by informing the registered person in FORM GST ASMT-12.
- In case no satisfactory explanation is furnished by the registered person in FORM GST ASMT-11 within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to pay the tax, interest and any other amount arising from such discrepancies, the proper

officer, may proceed to determine the tax and other dues under section 73 or section 74.

- For proceeding under section 73 or section 74, monetary limits as specified in *Circular No. 31/05/2018-GST dated 9th February 2018* shall be adhered to. However, if the proper officer is of the opinion that the matter needs to be pursued further through audit or investigation to determine the correct liability of the said registered person, then he may take the approval of the jurisdictional Principal Commissioner / Commissioner through the divisional Assistant / Deputy Commissioner, through e-file or other suitable mode, for referring the matter to the Audit Commissionerate or anti-evasion wing of the Commissionerate, as the case may be.

D) Timelines for scrutiny of returns

S. No.	Process	Timelines/ Frequency
1.	Communication of list of GSTINs selected for scrutiny on ACES GST Application for a financial year	From time to time
2.	Finalization of scrutiny schedule with the approval of the concerned Assistant/ Deputy Commissioner	Within seven working days of receipt of the details of the concerned GSTINs on ACES GST application
3.	Issuance of notice by the proper officer for intimating discrepancies in FORM GST ASMT-10, where required	Within the month, as mentioned in scrutiny schedule for scrutiny of the returns of the said GSTIN.
4.	Reply by the registered person in FORM GST ASMT-11	Within a period of thirty days of being informed by the proper officer in FORM GST ASMT-10 or such further period as may be permitted by the proper officer.
5.	Issuance of order in FORM GST ASMT-12 for acceptance of reply furnished by the registered person, where applicable	Within thirty days from receipt of reply from by the registered person in FORM GST ASMT-11.
6.	Initiation of appropriate action for determination of the tax and other dues under section 73 or section 74, in cases where no reply is furnished by the registered person	Within a period of fifteen days after completion of the period of thirty days of issuance of notice in FORM GST ASMT-10 or such further period as permitted by the proper officer.
7.	Initiation of appropriate action for determination of the tax and other dues under section 73 or section 74, in cases where reply is furnished by the registered person, but the same is not found acceptable by the proper officer	Within thirty days from receipt of reply from the registered person in FORM GST ASMT-11.
8.	Reference, if any, to the Audit Commissionerate or the anti-evasion wing of the Commissionerate for action, under section 65 or section 66 or section 67, as the case may be.	Within thirty days from receipt of reply from the registered person in FORM GST ASMT-11 or within a period of forty- five days of issuance of FORM GST ASMT-10 in case no explanation is furnished by the registered person.

The scrutiny functionality has been provided on ACES-GST application only for the Financial Year 2019-20 and onwards, therefore, the procedure specified in *Instruction No. 02/2022 dated 22.03.2022* shall continue to be followed for the scrutiny of returns for the financial years 2017-18 and 2018-19.

Instruction No. 02/2023-GST dt. 26.05.2023

GSTN Advisories

1) Timely filing of GST returns – Issued on 04.05.2023

It is advised to the taxpayers to use SMS filing option to file NIL returns as it would result in quicker and convenient way to file NIL returns. It also help to reduce queue on the GST portal. Further, taxpayers are also advised to file the return in advance in order to avoid last day rush.

Also, some taxpayers are uploading large number of invoices in GSTR-1 on the last day of filing. Taxpayers are also advised to inculcate a month-wise return filing discipline for all the B2B invoices for the month and avoid reporting invoices of the past period in one go, as such behaviour can adversely impact the queue (waiting time) on the GST system.

The better planning of return filing, the difficulty faced by the taxpayers due to last minute rush can be avoided and it would be of help to fellow taxpayers as well

2) Deferment of implementation of time limit on reporting old e-invoices – Issued on 06.05.2023

The competent authority has decided to defer the imposition of time limit of 7 days on reporting of old e-invoices on the e-invoice IRP portals for taxpayers with aggregate turnover greater than or equal to 100 crores by three months.

3) Due date extension of GST returns for the state of Manipur – Issued on 28.05.2023

The Government vide *Notifications No. 11/2023 – Central Tax, 12/2023 – Central Tax and 13/2023 – Central Tax*, all dated 24th May 2023 has extended the due date of filing following forms for the month of April, 2023 till 31st May, 2023 for registered persons, whose

principal place of business is in the State of Manipur:

S. No.	Forms	Due Date	Extended Due Date
1.	GSTR-1 (Statement of outward supplies)	11 th May, 2023	31 st May, 2023
2.	GSTR-3B (Monthly/Quarterly return)	20 th May, 2023	31 st May, 2023
3.	GSTR-7(return by a registered person required to deduct tax at source under section 51)	10 th May, 2023	31 st May, 2023

The above changes have been made on the portal from 27th May, 2023 onwards.

The late fee paid by the taxpayers who have filed their returns before 27th May 2023, shall be credited into their ledgers. The interest **amount**, shown in the next return, if any, may be corrected by the taxpayers themselves, as it is an editable field.

4) Advisory on Filing of Declaration in Annexure V by Goods Transport Agency (GTA) opting to pay tax under forward charge mechanism – Issued on 30.05.2023

The GTAs, who commence business or cross registration threshold on or after 1st April, 2023, and wish to opt for payment of tax under forward charge mechanism are required to file their declaration in Annexure V for the FY 2023-24 physically before the concerned jurisdictional authority.

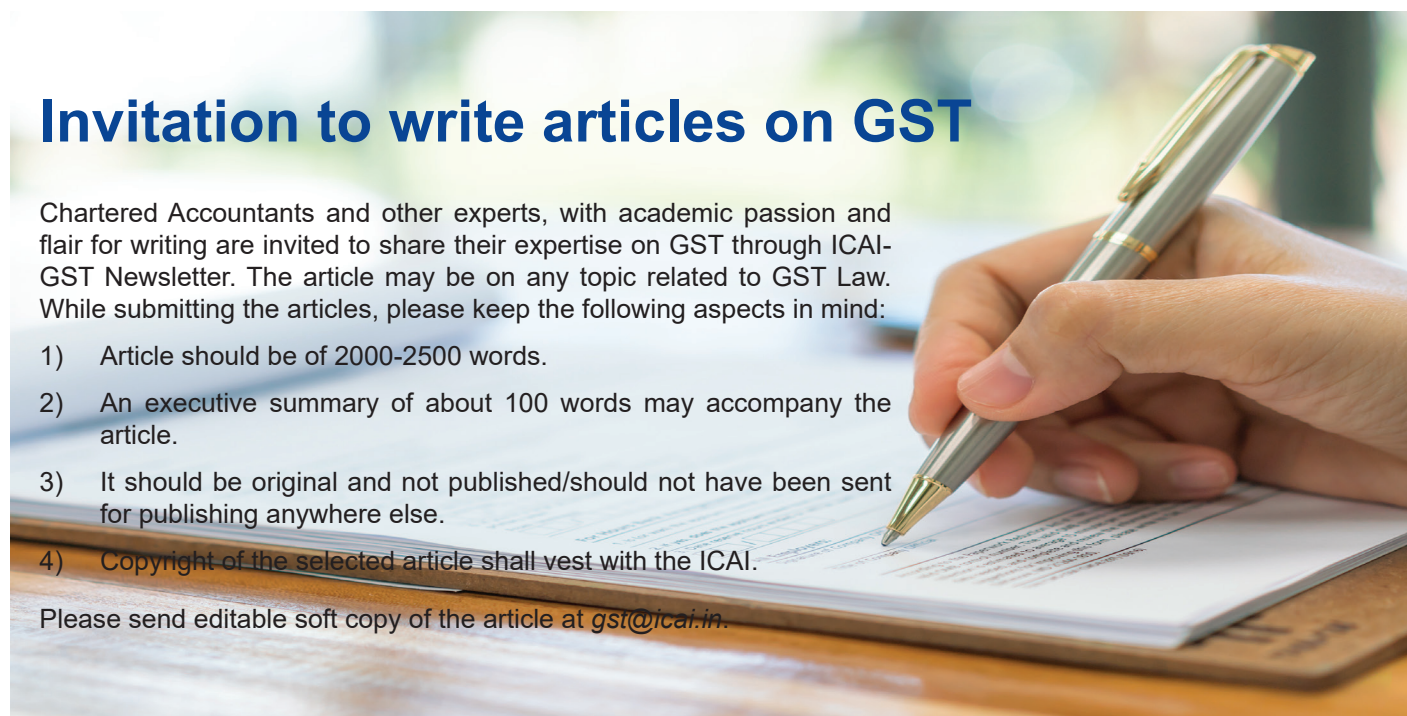
The declaration needs to be filed on or before the 31st May, 2023.

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.



COMPLIANCE SCHEDULE

RETURNS / STATEMENTS FOR THE MONTH OF JUNE, 2023

Forms	Compliance Particulars	Due Dates
GSTR 7	Return to be furnished by the registered persons who are required to deduct tax at source.	10.07.2023
GSTR 8	Return to be furnished by the registered electronic commerce operators who are required to collect tax at source on the net value of taxable supplies made through it.	10.07.2023
GSTR 1	Statement of Outward supplies by the taxpayers having an aggregate turnover of more than Rs. 5 crore or the taxpayers who have opted for monthly return filing.	11.07.2023
GSTR 1	Statement of Outward supplies for Quarter 1 of FY 2023-24 by the taxpayers having an aggregate turnover upto Rs. 5 crore and who have opted for the QRMP scheme.	13.07.2023
GSTR 5	Return to be furnished by the non-resident taxable persons containing details of outward supplies and inward supplies.	13.07.2023
GSTR 6	Return to be furnished by Every Input Service Distributor (ISD) containing details of the Input tax credit received and its distribution.	13.07.2023
CMP 08	Statement of self-assessed tax to be furnished by the Composition taxpayers for Quarter-1 of FY 2023-24	18.07.2023
GSTR 3B	Return to be furnished by all the taxpayers other than who have opted for QRMP scheme comprising consolidated summary of outward and inward supplies.	20.07.2023
GSTR 5A	Return to be furnished by Online Information and Database Access or Retrieval (OIDAR) services provider for providing services from a place outside India to unregistered person in India.	20.07.2023
GSTR 3B	Return to be furnished by the taxpayers who have opted for QRMP scheme for Quarter 1 of FY 2023-24 comprising consolidated summary of outward and inward supplies. (For registered taxpayers having their place of business is in the states of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep)	22.07.2023
GSTR 3B	Return to be furnished by the taxpayers who have opted for QRMP scheme for Quarter 1 of FY 2023-24 comprising consolidated summary of outward and inward supplies. (For registered taxpayers having their place of business is in states of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24.07.2023

ANSWER TO CROSSWORD ON PAGE 9:

ACROSS:

2. Godown, 4. Brother, 6. CCI, 7. Zerorated, 9. Payment, 11. Diesel, 13. Rummy, 15. GSTIN,

DOWN:

1. Blocked, 3. Option, 5. Reverse, 8. Salary, 10. Thirty, 12. IGST, 14. Mixed



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

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An exhaustive 10 days course for building capacities of members in GST and equipping them to take up new opportunities in the field of GST

Time : 10.00 am to 5.00 pm

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Content of the Course					
Introduction to GST & Constitutional Provisions related thereto	Supply and Levy of GST	Classification	Nature of supply	Time of supply	Place of supply
Valuation	Reverse charge mechanism	Import & Export under GST	Registration	Input Tax Credit	Finalization of accounts from GST perspective
Exemptions under GST	Maintenance of books of accounts and records	Returns & Payment of tax	E-Way Bills & E-Invoicing	Assessment	Audit by tax authorities
Refunds	Annual Return & Reconciliation	Inspection, Search & Seizure	Demand & Recovery	Offences & Penalties	Appeals & Revisions
Advance Rulings	Handling notices/demands and appeals	Case Studies	Recent judicial pronouncements	Ethical Practice	Professional opportunities

Hard copy of Background Material on GST will be provided as course material.

Details about the Course:

<https://idtc.icai.org/about-certificate-course.html>

CPE Hours:

30 Structured CPE hours (25 hours after attending the sessions and 5 hours after passing the Assessment Test)

Contact : gst@icai.in/ 0120-3045 954

GST QUIZ

1. As per section 73 of the CGST Act, 2017, the proper officer shall issue the adjudication order within _____ from the due date of filing of annual return for financial year to which tax not paid, short paid or input tax credit wrongly availed or utilized relates or within _____ from the date of erroneous refund.
 - a) 3 months, 3 months
 - b) 3 years, 5 years
 - c) 3 years, 3 years
 - d) 5 years, 5 years
2. With effect from 1st August, 2023, e-invoice will be required to be generated by a taxpayer having aggregate turnover of more than in any of the preceding financial year from 2017-18 onwards -
 - a) ₹5 crores
 - b) ₹10 crores
 - c) ₹20 crores
 - d) It has to be generated by every registered person
3. In accordance with provisions of section 49 of the CGST Act, 2017, a registered person may, on the common portal, transfer any amount of tax, interest, penalty, fees, or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for
 - a) integrated tax, central tax, State tax, Union territory tax or cess
 - b) integrated tax or central tax of a distinct person as specified in section 25(4) or 25(5), as the case may be
 - c) Both 1 & 2
 - d) None of the above
4. Who is not required to file an annual return?
 - a) Casual Taxpayers
 - b) Input Service Distributors
 - c) Non-resident taxpayers
 - d) All of the above
5. Who will monitor the progress of special All-India drive initiated by the Government against fake registrations?
 - a) Search-cum-selection Committee
 - b) National Coordination Committee
 - c) Both
 - d) None of the above
6. Mr. Y of Bangalore has rendered services relating to immovable property situated in Delhi to Mr. L of Lucknow. What will be the place of supply in this case?
 - a) Delhi
 - b) Bangalore
 - c) Lucknow
 - d) All the above
7. Which of the following is not included in the aggregate turnover of job worker under GST?
 - a) Goods returned to the principal
 - b) Goods sent to another job worker on the instruction of principal
 - c) Goods directly supplied from the job worker's premises by the principal
 - d) All the above
8. For the transportation of which of the following items, e-way bill is not required to be generated?
 - a) Postal baggage transported by Department of Posts
 - b) Used Personal & Household Effects
 - c) Only B
 - d) Both a) and b)
9. The extended time for exercising the option by Goods Transport Agencies (GTAs) to opt for paying tax under forward charge for the FY 2023-24 is:
 - a) On or before 30th April, 2023
 - b) On or before 15th May, 2023
 - c) On or before 31st May, 2023
 - d) On or before 15th March, 2023
10. Which of the following is not correct with respect to cancellation of registration?
 - a) Where registration has been obtained by means of fraud, wilful mis-statement or suppression of facts, the same may be cancelled by the proper officer but with only prospective effect.
 - b) If a registered person paying tax under section 9 of the CGST Act, 2017, has not furnished returns for a continuous period of 6 months, proper officer can cancel his registration.
 - c) If a composition tax payer has not furnished the return for a financial year beyond 3 months from the due date of furnishing the said return, his registration may be cancelled by the proper officer.
 - d) If the registered person, who has obtained registration voluntarily, has not commenced business within 6 months from the date of registration, his registration may be cancelled by proper officer.

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. Amit Kumar	572011
CA. Ankita Jain	572016
CA. Sonali Gupta	465849
CA. Naveen Mangla	547206
CA. Mohd. Danish	557856

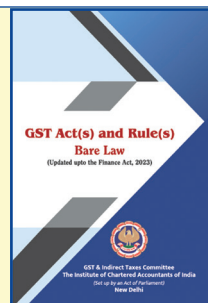
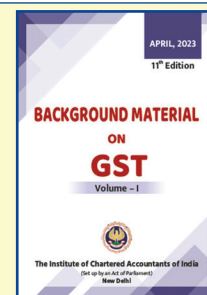
Please provide reply of the above MCQs in the link given below. The name of the first 5 members who provide all the correct answers within 48 hours of receipt of this Newsletter, would be published in the next edition.

Link to reply: <https://forms.gle/bwhvJvstUJQkTyAb8>

REVISED PUBLICATIONS

Background Material on GST - April 2023 (11th) Edition

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 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.



GST & Indirect Taxes Committee

Home Overview Certificate Course Programme/Seminar Representations to Govt Publications Knowledge Sharing Useful Links



CA. Aniket Sunil Talati
President, ICAI



CA. Ranjeet Kumar Agarwal
Vice-President, ICAI



CA. Sushil Kumar Goyal
Chairman, GST & IDTC



CA. Umesh Sharma
Vice-Chairman, GST & IDTC



Background Material on GST (25.05.2023) - Volume - I & Volume - II - 11th Edition released by the President, ICAI during 421st Meeting of the Council on 25th May 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 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, developing/ updating publications, sending regular updates, etc.

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

Secretary

GST & Indirect Taxes Committee

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