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President's Communication



Dear Professional Colleagues,

I am delighted to extend my warmest greetings to each one of you. As we navigate the dynamic landscape of GST, it is my privilege to witness our collective commitment to excellence.

The GST regime has consistently demonstrated a rise in revenue. This sustained increase in revenue serves as a testament to the effectiveness of the GST framework. Our members have played pivotal role and helped in the smooth execution of the Nation's GST agenda successfully and I am sure they will contribute in the times to come as well.

The GST and Indirect Taxes Committee of ICAI has demonstrated a proactive approach by undertaking diverse initiatives and consistently conducting capacity-building programs for government officers across different states. Also, the Committee hosted its 2nd National GST Symposium, 2023 at Guwahati for GST Officers of Central, State and Union Territory which brought all the Officers on one platform to foster synergy, discussions, exchange of ideas, flag issues and brainstorm resolutions. The committee has always made endeavours ensuring that members are equipped with the knowledge needed to navigate a complex and ever-evolving regulatory environment and one such medium of knowledge dissemination is the monthly GST newsletter.

I hope that this 42nd edition of the GST Newsletter will prove to be useful to all the members and other stakeholders. I urge all the readers to continue the journey of learning and stay updated of the ever-evolving law of GST as that is how profession can serve the society at large.

Best Wishes,

CA. Aniket Sunil Talati

President

The Institute of Chartered Accountants of India

Chairman's Communication



Dear Members,

Warm Greetings.

I trust this message finds you well and thriving in your respective roles. I am delighted to share the 42nd edition of ICAI GST Newsletter providing you with the latest GST updates, judicial pronouncements and other GST related news.

The GST and Indirect Taxes Committee has been proactive in taking up various initiatives and has been regularly conducting capacity-building programmes for Government officers in various States. Recently, the Committee hosted a National GST Symposium, 2023 for CGST, SGST and UTGST Officers at Guwahati. It was organised exclusively for the Officials of Central Tax, State Tax and Union Territory Tax. The Symposium brought all the Officers on one platform to foster synergy, discussions, exchange of ideas, flag issues and brainstorm resolutions. More than 60 high-ranking officers including Chief Commissioners, Commissioners, Additional Commissioners, Joint Commissioners from twenty-two States (22) and also senior officials from GSTN participated in the Symposium. There were deliberations on the topic "*Harnessing Technology: Widening tax base & Enhancing taxpayer services*" and panel discussions on the topics "*Recent Trends in GST Demands & Adjudication*" and "*Scope for Revenue Augmentation: State Government's Perspective*". Further, the Committee's publication '*GST Act(s) and Rule(s)- Bare Law*' January, 2024 edition was released in the Symposium.

The Committee has worked diligently to curate content that covers a spectrum of GST related topics - from the latest regulatory updates to compliance requirements. The Committee has been proactive in organizing a series of impactful seminars, workshops and certificate courses aimed at providing comprehensive insights into GST-related matters. I believe that these efforts will contribute significantly to foster a better understanding of GST principles and their practical implications. Participation and support in these events would be highly valuable, and we look forward to your continued engagement in our upcoming activities. The Committee has come out with various publications in order to update the members. The soft copy of the publications can be accessed at <https://idtc.icai.org/> and the physical copy can be ordered through CDS portal of ICAI.

Thank you for being a vital part of our community. Your feedback and suggestions are always welcome at gst@icai.in, as they help us tailor future editions to better suit your interests. Until next time, stay curious, stay connected, and stay inspired!

Yours sincerely,

CA. Sushil Kumar Goyal

Chairman

GST & Indirect Taxes Committee

The Institute of Chartered Accountants of India

GST & IBC – AN INTERESTING SAGA OF ‘ENTWINED TWINS’

The interplay between the Goods and Services Tax (“GST”) and Insolvency and Bankruptcy Code, 2016 (“IBC”) has been a contentious issue since the onset of both the statutes. Much of the issues arise on account of both the laws being quite contemporary and not comprehensively tested by the judiciary. These issues are also coupled with lack of clarity on interpretation of provisions of these laws by both the Hon’ble NCLT and the GST authorities with the former always interpreting with an intent of maximisation of value of assets and the latter being a taxing statute always construing strictly for maximization of tax revenue. In this article, we make an attempt to discuss some issues which have cropped up time and again owing to interpretational issues and others that are still emerging and remain to be clarified due to evolving jurisprudence under both the statutes, namely:

- a) Payment of GST during CIRP;
- b) Clean Slate Doctrine;
- c) Denial of Input Tax Credit (ITC) to customers/recipients qua extinguished claims;
- d) Denial of ITC available in Electronic Credit Ledger to successful resolution applicant;
- e) Continuation of liability of previous management of Corporate Debtor’s unsettled/unpaid dues.

a) Payment of GST during CIRP

The first and foremost issue which caused a lot of dilemmas in the mind of Resolution Professionals (RPs) after taking over the management of a company (Corporate Debtor) pursuant to initiation of Corporate Insolvency Resolution process (CIRP) was regarding discharging of GST liability during the CIRP. This was owing to the fact that most Corporate Debtors were in default of either GST returns or dues for the pre-CIRP period and consequently the GST returns for the CIRP period could not be filed. To overcome this difficulty, the Central Board of Indirect Taxes and Customs in March 2020 notified the process to be followed by an IRP/RP for ensuring GST compliances of Corporate Debtors undergoing CIRP - A move much welcomed by the insolvency professionals across the board and putting rest to many qualms.

b) Clean Slate Doctrine

Another pertinent question came regarding the ‘clean slate’ doctrine envisaged under the IBC. While the intent of legislature under the IBC was very clear since its inception that once a resolution plan is approved by the Hon’ble NCLT, even if the same results in extinguishing claims of creditors (including statutory dues) the same be binding and accepted by all the stakeholders

including the statutory authorities. However, in the initial years, the GST department both at the Centre and State level appeared to be not much familiar with the IBC (probably owing to their own challenges faced in transitioning to the GST regime), so much so that the GST department in most of the cases were not even filing their claims with the IRP/RP. This led to a situation where the resolution plan would pass with a condition that all previous claims stand extinguished, however statutory authorities including GST would be completely oblivious of the same. Subsequently, when any scrutiny or assessment or adjudication proceedings would be proposed to be commenced by GST authorities, the same would be challenged on ground of ‘clean slate’ doctrine under IBC.

The same issue reached doors of various High Courts and the first decision was pronounced by Rajasthan High Court in case of *Ultratech Nathdwara Limited, 2022 (382) E.L.T. 660 (Tri.-Ahmd) [20-10-2022]* wherein the High Court was dealing with the Writ Petition filed by a successful resolution applicant and held that debt in respect of payment of dues arising under any law for the time being in force have been brought under the umbrella of the resolution plan approved by the adjudicating officer which has been made binding on Governments and local authorities. Therefore, the GST authorities have no right to claim the pending tax dues which have been given a haircut under the resolution plan approved by the Hon’ble NCLT – thus, the same could not be recovered by the GST authorities. This decision was in line with the principles of the IBC where apropos repayment of the operational debt of statutory dues being fifth in priority in the waterfall, the only condition a successful resolution applicant needs to satisfy is that the value given to the operational creditors is not less than the liquidation value.

A few days later, the Hon’ble Jharkhand High Court yet passed another decision in case of *Electrosteel Steels Limited (W.P. (T) No. 1995 of 2023, decided on 11-7-2023)* wherein the Hon’ble High Court taking a contrary view approved commencement of garnishee proceedings under the Jharkhand Value Added Tax, Act 2005 (JVAT) for pre-CIRP dues after approval of resolution plan. The Hon’ble High Court ignored the fact that garnishee proceedings were commenced on the strength of a reassessment order (for assessment years 2011-12 and 2012-13) which was also passed by the GST department after the approval of resolution plan. The Hon’ble High Court of Jharkhand in fact observed that the Commercial Tax Department (now

State GST authorities) had no knowledge of the CIRP of the Corporate Debtor/Petitioner on account of no public notice having been made in State of Jharkhand and thus they were deprived of making a claim. Further, since the case pertained to the period before amendment of section 31 of IBC and thus the resolution plan was binding only on the stakeholders involved in the resolution process. Therefore, Commercial Tax Department (now State GST authorities) could not be said to be involved in the resolution process and thus the resolution plan was not binding on them.

It is pertinent to note that the Hon'ble High Court of Jharkhand had not considered various other facets of interplay between GST and IBC (possibly because these arguments/points were not pressed/argued adequately). The Hon'ble High Court heavily relied upon unamended provisions of section 31 of IBC without realising that the legislature in its wisdom and to avoid issues arising on account of statutory dues had inserted the words "including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed," in section 31 of IBC. The amendment was clearly a clarificatory amendment as per the notes accompanying this amendment which read as under:

"to amend sub-section (1) of section 31 of the Code to clarify that the resolution plan approved by the Adjudicating Authority shall also be binding on the Central Government, any State Government or any local authority to whom a debt in respect of payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, including tax authorities"

(emphasis supplied)

Needless to mention that it is a settled principle of law that a clarificatory amendment only clarifies the position of law that was always existing. There is no new provision that is carved out. Therefore, the High Court's observation that the amendment is prospective in nature, it is respectfully submitted, was in the teeth of the clear intent and position of the law. The same was also affirmed by the Hon'ble Supreme Court of India in various judgments, most notably in *Ghanshyam Mishra & Sons v. Edelweiss Asset Reconstruction*, (2021) 9 SCC 657. While the Hon'ble Jharkhand High Court's judgment does not hold good, the matter is still open to challenge owing to the said judgment though other High Courts across the country have accepted the 'clean slate' doctrine.

c) Denial of Input Tax Credit (ITC) to customers/recipients qua extinguished claims

As mentioned earlier, since both the laws are new and owing to new facets of interpretation, on a lighter

note, the GST department with its 'never say never' approach and in its pursuit to minimize the loss to exchequer tries to take shelter under one or the other provisions of law. Interestingly, in a few cases the GST department is issuing notices proposing to denying ITC to the customers/recipients of the Corporate Debtor qua the invoices issued by Corporate Debtor during pre-CIRP wherein respective pre-CIRP GST dues got extinguished under the resolution plan. In such cases, admittedly the Corporate Debtor prior to CIRP were in default of payment of GST dues on their outward supplies, while the customers/recipients had made full payments to such Corporate Debtor/supplier. The GST department is relying upon the provisions of section 16(2)(c) and 41 of the CGST Act to contend that since the tax dues in respect of the invoices were not paid and thereafter under resolution plan got permanently extinguished, the recipient is not entitled to take ITC and those who have taken it should reverse the ITC.

While on a plain reading of the provisions of the CGST Act, the proposition adopted by the GST department in such cases may look lucrative, on a deeper analysis, it appears that the same has legal fallacies.

In terms of the extant legal position under the IBC and as settled by the Hon'ble Supreme Court from time to time, a Corporate Debtor emerges from an insolvency under IBC with a clean slate, with all its financial, operational, and also statutory liabilities having been settled, and/or deemed to have been wiped out, in their entirety. Further, once the resolution plan is sanctioned by the Hon'ble NCLT, all the GST claims pertaining to pre-CIRP period (whether filed or not) are extinguished by operation of law. Hence, there was no obligation on the Corporate Debtor or successful resolution applicant to make payment of GST. The reliance on section 16(2)(c) of the CGST Act to contend that one of the conditions of the availment of ITC is that the tax charged on a supply should actually be paid to the Government is not applicable to such cases as once the GST liabilities were wiped out/ extinguished or settled by sanction of the resolution plan and the operation of law, the condition in section 16(2)(c) should be read down to mean that tax charged on the supply is deemed to have been paid to the Government. Otherwise, this would be in violation and derogation of the principle of emergence from CIRP with a clean slate.

It is noteworthy that one such issue is pending consideration before the Hon'ble High Court of Delhi in case of *Ebix Cash Mobility Software India Limited [W.P. (Civil) 15984 of 2022]* who was a successful resolution applicant for a Corporate Debtor. The above proposition definitely needs some clarity as it will open up a pandoras box in GST and IBC litigation.

d) Denial of ITC available in Electronic Credit Ledger to successful resolution applicant

Recently, the Hon'ble High Court of Jharkhand in yet another pro-revenue decision in case of *ESL Steel Limited [W.P. (T) No.1995 of 2023]* while denying the claim of transitional credit to the successful resolution applicant has interestingly held that since the resolution plan was approved back in 2018, past obligations of the past period got extinguished once the new management took over the company as a part of the resolution plan. The High Court has held on that basis that even the "past credit due to the company gets expunged." In the order impugned before the Hon'ble High Court, the Commissioner had held that as per the judgement of various High Courts, dues of Central/State taxes pertaining to the period of previous management cannot be recovered and that in a "reciprocal approach", the credit available to the earlier management will also not be available to the current management. The said so called reciprocal approach has been approved by the Hon'ble High Court by holding that as the current management was not a taxpayer during the period of procurement of capital goods, transitional credit cannot be taken.

The said decision of the Hon'ble High Court has far reaching consequences in the sense that the same not gives leeway to GST department to even deny the ITC if any available in the Electronic Credit Ledger of the Corporate Debtor and restrain the successful resolution applicant from utilising the same. Such a proposition is neither contemplated much less countenanced by the IBC, to deny legitimate credit which has vested to a Corporate Debtor by operation of law. If such an approach is allowed to stand, the same will amount to extinguishment of the rights and/or debts receivable by the Corporate Debtor post acceptance of the resolution plan which in turn will hamper the revival of the Corporate Debtor and hence, is against the very text and context of the IBC.

Again, a Special Leave Petition against the judgment of Hon'ble High Court of Jharkhand is pending consideration before the Hon'ble Supreme Court of India in *ESL Steel Limited v. Principal Commissioner CGST & Ors. [SLP No. 21393/2023]*.

e) Continuation of liability of Previous Management of Corporate Debtor's unsettled/unpaid dues

Section 88(3) of the CGST Act casts a vicarious liability on the directors of the private company in liquidation to pay the amount of unrecovered GST along with interest and penalty. A question that arises for consideration is whether section 88(3) of the CGST Act overrides the waterfall and non-obstante clause of IBC Code and is independent? On a plain reading of section 88(3) of the CGST Act, it emerges that the

directors of private companies can be held liable for payment of GST dues (along with interest and penalty) which remain unrecovered, whether the same were accrued prior to liquidation or during the liquidation or after the liquidation. It is noteworthy that this provision is not subject to any other law for the time being in force. Even though section 238 of the IBC provides that IBC overrides all other laws to the extent same are inconsistent with the IBC, since section 88(3) is not in any manner inconsistent with the provisions of IBC, section 238 of the IBC Code does not save operation of section 88(3) of the CGST Act.

Therefore, a room is given to the GST authorities who can invoke the provisions of section 88(3) of the CGST Act to catch hold of directors of private companies in cases where the tax dues remain unrecovered. The same is also fortified by the fact that the CGST Act is a later law than IBC and legislature has conspicuously decided not to make section 88(3) of the CGST Act subject to the provisions of IBC as has been done in various other provision of CGST Act.

Consequently, apropos private companies, it can be said that even though tax dues are not a first charge of property when it comes to liquidation under IBC Code, the directors of private companies can still be held liable for unrecovered tax dues if the same are not paid in full under the waterfall mechanism prescribed under IBC Code.

One major concern requires more clarity is whether section 88(3) of CGST Act will only apply to unrecovered tax dues in cases where Corporate Debtors are sent to liquidation on failure of receipt of resolution plans? The same should hold good since (as discussed in the foregoing paragraphs), in cases where resolution plans are approved and claims are extinguished by operation of law, then the same will be deemed to be settled and should not qualify as unrecovered tax anymore.

Conclusion

While both the statutes were enacted around the same time in-line with the vision of ease of doing business and improving overall business atmosphere, both have had their independent challenges in the initial years of implementation. However, inspite of the fact that both the statutes operate in completely different spheres and given the fact that IBC has to entwine with so many other statutes simultaneously, its entwining and twinning with GST has been an interesting one so far. While the legislature and judiciary have so far tried their best to make them harmonious to each other, it is believed that the same approach will sustain in the times to come and all issues will be put to rest with timely clarifications. But for professionals, this journey of evolving GST & IBC laws like an 'entwined twins' is always interesting to watch!

Contributed by CA. Abhishek Garg

INTEREST UNDER GST - A DISINCENTIVE FOR LITIGATION

Introduction

These days general public perception about the recent notices is that many taxpayers are getting notices under GST, some are to prevent missing deadlines to raise demands, many are because data is being compared too simplistically, and plenty are due to taxpayers not realizing that GST is different from previous taxes, which may or may not be correct. Taxpayers are equally resolute to litigate these demands, some on the ground of bona fide facts of their case, some others on the ground of interpretation being taken and plenty others on the ground that they can ill-afford to accept to discharge the demands.

Interest 'clock'

There is no need to compute interest when issuing notices because interest is payable until the date when the underlying liability (to tax, credit or refund) is discharged and where the said liability is in dispute, the clock will continue to 'tick', notwithstanding, that any part of the tax would have been 'deposited' even as a pre-condition to appeal. It is very interesting that section 75(9) saves interest from the perils of any oversight by permitting interest to apply even if the same is overlooked in any order of adjudication.

Interest always on gross output tax liability

The GST Council has ensured in its 39th meeting that interest should be charged on 'net tax'. Further, the proviso to section 50 ensures that interest is always on gross output tax liability except where tax discharged is due to 'belated returns'.

Payment via DRC-03 will attract interest on gross liability discharged. Interest on undischarged arrears (due to mismatch of GSTR-1 with 3B) will also be on gross liability discharged. Interest paid when DRC-01A is issued (to be discharged via DRC-03) will be on gross liability discharged (and relief is only of concession in penalty).

Interest-free liability 1

No interest will apply when inadmissible input tax credit remains unutilized and is discharged. The objective is crafted in rule 88B that if the balance in the 'credit pool' drops below the mark of inadmissible credit, it will be treated to have been 'utilized' and be ousted from the relief of interest-free reversal of liability.

Note 1: if the inadmissible credit available and lying unutilized is Rs.1,000, reversal of Rs.1,000 even after some interval of time, will be interest-free. But if the balance in credit pool 'at any time' before reversal, drops below Rs.1,000, interest will be attracted.

It is important to note that the 'balance' in credit pool is not the total inadmissible credit liable to reversal but inadmissible credit qua each invoice making up the balance liable to reversal.

Note 2: if the inadmissible credit of Rs.1,000 is made up of 10 inward supply invoices of Rs.100 each and the balance falls to Rs.700 (and moves up beyond Rs.1,000 later), then the reversal will be (i) Rs.700 without interest and (ii) Rs.300 along with interest.

To allow relief from interest on reversal of inadmissible credit only when the whole of the demand is lying unutilized would be to read rule 88B qua demand and not qua inward supply. This cannot be.

Interest-free liability 2

Transition credit lying unutilized and reversed will not attract any interest not because rule 88B saves transition credit reversals but because transition credit is neither output tax to come within operation of section 50(1) nor input tax credit to come within operation of section 50(3) for it to derive relief from this new rule that came to be introduced with retrospective effect from 1 July 2017. Without a specific statutory provision to attract interest, the same cannot be levied on transitional credit demands. This jurisprudence is long-standing and one such instance of its application can be found in *Pioneer Silk Mills (P) Ltd. v. UoI 1995 (80) ELT 507 (Del.)* while considering the implications of penalty made applicable by extending all attendant consequences mutatis mutandis of a demand for additional duties left undischarged.

Due process for demand and recovery reside in Chapter XV of the Central GST Act and the machinery provisions to carry out the objects of the statutory provisions are contained in Chapter XVIII of the Central GST Rules. Thus, rule 121 lacks authority in the Act.

Absence of deposit 'under protest'

Demands must either be discharged or disputed. Demands discharged bars any recovery actions. Recovery is stayed

if disputed demands are pending in appeal filed properly. There is absence of a specific provision permitting deposit of disputed demands to save from the 'ticking clock' of interest. But then there are those who believe that equitable measure that displays confidence in making a full deposit yet agitate the demand cannot vanish in GST but there is no such provision in this law that explicitly provides 'deposit under protest'.

Something so important cannot be assumed even if essential. And if it is so essential, that there must be an explicit provision in the Act. Without one, the answer obviously is that decision to dispute takes within its fold the perils of interest as long as that dispute lasts. There is not a single provision that facilitates 'hedging' from the mounting burden of interest that demands tend to attract.

Refund Procedure

Deposit of disputed liability, under protest or not, requires refund application to collect amount paid that do not represent any liability under this Act, *Circular 125/44/2019-GST dated 18 Nov 2019* in para 24 requires filing of another refund application in this regard.

Apex Court has held in *Ramlal & Ors. v. Rewa Coalfields Ltd.* AIR 1962 SC 361 that passing of limitation creates a vested right in favour of counterparty that cannot be lightly dismissed, not even if interests of justice are at stake. And where the payment is either due to mistake of law or an illegal levy, it has been held in *Mafatlal Ind. Ltd. v. UOI & Ors.* (1997) 5 SCC 536 that remedy allowed in statute law alone operates if there is a lawful procedure for seeking refund by an application that adheres to natural justice without permitting unjust enrichment. And where a limitation is prescribed in such procedure, it meets the exacting standards of *res judicata*.

With all these ingredients present, any refund in GST requires application under section 54. Without an application, no such refund is permissible, the only exception is pre-deposit made under section 107(11) or section 112(8). Any deposit whether, under protest or not, overriding the statutory maximum extent prescribed, does not extend the character of pre-deposit to such payment and cannot claim exclusion from requirement of 'an application' to claim refund.

Trend of dispute resolution schemes

Decision to dispute any demand is not necessary founded on solid ground – correct interpretation of law in self-assessment. It is often decided on the confidence that taxpayers have in the trend that successive Governments

have shown in resolving disputes by introducing schemes to conclude all *vivaad* and *win sab ka vishwaas*.

Regularity of such schemes – once every ten years – has become reliable although the reasons each time is not the same. This also fosters litigation by habitual litigants. If taxpayers are to dispute for good and sufficient reasons and not due to ill-affordability of the liability, there must be a legislative design that creates an inherent disinterest for taxpayers to rush to dispute even a very real and extant liability. And this seems to reside in the 'ticking clock' of interest that last the entire duration that the liability remains in-dispute.

Conclusion

A legislation that has drawn from experience since Sea Customs Act, cannot be assumed to have left something as profound as 'deposit under protest' to be decided yet again by Courts. And to omit an explicit provision, either permitting or prohibiting, relief from interest that flows from (the wisdom of) making full deposit while continuing to dispute underlying demand, is not unintentional, not by any stretch of imagination.

When the law is updated, this wisdom – to deposit under protest – must be considered outdated and outdone by a new legislation that challenges taxpayers to dispute demands responsibly and accept perils of mounting interest. That is discouragement by design (in the law) meant to operate as a bulwark against irresponsible taxpayers indulging in frivolous litigation and to encourage only those who are confident that the interpretation canvassed will not sustain in spite of that 'ticking-clock'!

Contributed by CA. A Jatin Christopher



SHOW CAUSE NOTICES - CHECKING THE VALIDITY

Section 73(1) of the CGST Act, 2017 provides for the issuance of a Show Cause Notice (SCN) before the issuance of any adjudication order. A SCN must contain the following ingredients for it to be valid in the eyes of the law.

In this article, we shall discuss the points to be checked while analyzing and replying to any SCN:

1. Limitation Date:

Section 73(2) of the CGST Act, 2017 specifies that a SCN should be issued at least three months prior to the issuance of an adjudication order.

Central Board of Indirect Taxes & Customs (CBIC) in exercise of its powers u/s 168A of the CGST Act, 2017 vide *Notification No. 09/2023-CT dated 31.03.2023* has extended the time limit for issuance of adjudication order for FY 2017-18, 2018-19 and 2019-20 pertaining to non-fraud cases under 73(9) of CGST Act, 2017. However, the time limit has been further extended by *Notification No. 56/2023-CT dated 28.12.2023* for the FY 2018-19 and FY 2019-20.

2. Personal Hearing:

A SCN should specifically provide the date and time of personal hearing¹. Any SCN mentioning 'NA' in the column of personal hearing is liable to be quashed².

3. Summary of the SCN:

Rule 142(1) of the CGST Rules prescribes the requirement of issuance of a summary of the SCN along with the SCN in FORM GST DRC-01. A SCN should always be issued along with FORM GST DRC-01³.

The summary to the SCN shall contain the following details:

- Details of the taxpayer like GSTIN, address etc.
- Tax period, Financial year, Section reference and SCN reference no.
- Brief facts of the case;
- Grounds; and
- Taxes and other dues (Interest, penalty and others)

4. SCN and the summary should be duly authenticated:

Rule 26 of the CGST Rules prescribes the method of authentication of notices, certificates and orders issued under the GST Law. It is provided that all the communications should be duly authorized either by digital signature or any other means of signature.

Unsigned notice/order is merely a generic letter having no validity in eyes of law⁴.

5. Intimation to the SCN (DRC-01A):

Rule 142(1A) of the CGST Act, 2017 prescribes for issuance of prior intimation to the SCN in FORM GST DRC-01A. However, the issuance of prior intimation has been made optional w.e.f. 15.10.2020 with respect to the SCNs issued after the said date.

6. Service of Notice (Sec. 169):

Section 169 of the CGST Act, 2017 paves the manner for serving any communication to the taxpayer. Any sort of notice, order or communication issued by the Revenue to the taxpayer shall be in line with the provisions of the aforesaid section.

The modes of service prescribed under the law are as follows:

- Physical/ direct delivery or delivery by messenger
- Registered Post or Speed Post
- Email
- Uploading on the common portal
- Publication in a newspaper circulating in the residential locality of the taxpayer
- If above modes are not practical or fail then, by affixing it in some noticeable place at his last known place of business or residence or on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice

If a notice is communicated to the taxpayer by any other mode except from those stated above, then such notice shall be considered to have not been delivered/ serviced via appropriate means.

¹ FADA Trading Private Limited v. Income Tax Ward, W.P.(C) 1212/2022 (Delhi High Court)

² Panther Security Guard Services v. State of Uttar Pradesh, W.P.(T) 194/2023 (Allahabad High Court)

³ Gulati Enterprises v. Central Board of Indirect Taxes and Customs, 2022 SCC OnLine Del 1501 (Delhi High Court) and Nkas Services Private Limited v. State of Jharkhand, 2022 SCC OnLine Jhar 124 (Jharkhand High Court), Chitra Automobile v. State of Jharkhand, W.P. (T) No. 4784 of 2022

⁴ SRK Enterprises v. Assistant Commissioner (ST) Writ Petition No. 29397 of 2023 (Andhra Pradesh High Court), Ramani Suchit Malushte v. Union of India and others (2023) 112 GSTR 149 (Delhi High Court), Marg ERP Limited v. Commissioner of Delhi GST, 2023 SCC OnLine Del 714 (Delhi High Court)

7. Jurisdiction of Proper Officer:

Section 2(91) of the CGST Act, 2017 read with *Circular No. 3/3/2017-GST dated 05.07.2017* amended by *Circular Nos. 31/05/2018-GST dated 09.02.2018* and *169/01/2022-GST dated 12.03.2022*, prescribes who can be the “proper officer” for the purpose of the provisions other than related to registration and composition under the CGST Act, 2017.

In many of the cases, it has been seen that notices are being issued by different authorities for the same period. Henceforth, it is advisable to the taxpayer to check the jurisdiction of the proper officer as applicable to them.

8. Prior objections to irregularity in SCN:

Section 160(2) of the CGST Act, 2017 calls the taxpayer to object to any sort of irregularities in the SCN or any communication before acting upon the notice. Raising ground of irregularities in the communication at the later stage of proceedings may lose their merits.

Accordingly, it is advisable that taxpayer should thoroughly go through the SCN and check the validity of the SCN in view of the provisions of the law and file objection if any irregularity is discovered. This should be done before proceeding with filing of a reply to the SCN.

9. Multiple Proceedings for the same FY:

In many instances, it is observed that SCN or intimation for scrutiny u/s 61 is issued to the taxpayer whose audit u/s 65 is under progress or was already completed. In such cases, it is advisable to inform the proper officer regarding the pendency or completion of the audit with other authority and a request should be made to stay the proceedings under the latter notice⁵.

The court on intimation by the taxpayer stayed the fresh proceeding initiated by the authorities in light of ongoing proceedings.⁶ Guwahati High court also adopted this view.⁷

10. Validity of the power to extend date u/s. 168A:

Section 168A, which empowers the CBIC to extend the limitation date, is under challenge since the section only allows extension of limitation in cases of force majeure i.e., war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.

Extension of the limitation date for issuing an order u/s 73 is also under challenge before the Hon'ble Gujarat High Court⁸ and Hon'ble Allahabad High Court.⁹

Thus, a taxpayer should always check if the SCN is valid. The above-mentioned criterion may be referred to ascertain whether the SCN is legal in the eyes of the law.

Contributed by CA. Subham Tulsian

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.

⁵ Gopeshwar Iron & Steel Works Private Limited v. Superintendent, CGST & CX, 2023 SCC OnLine Cal 2820 (Calcutta High Court)

⁶ R.P Buildcon Pvt. Ltd. v. Superintendent, CGST & CX, Circle – II, Group – 10, MAT/1595/2022 (Calcutta High Court)

⁷ Surya Business Private Limited v. State of Assam, WP(C). 6322/2023 (Guwahati High Court)

⁸ SRSS Agro Pvt. Ltd. v. Union of India, Special Civil Application No. 19720 of 2023

⁹ Graziano Trasmissioni India Private Limited v. State of Gujarat, C/SCA/11332/2022

GST UPDATES

1. Relaxation for filing appeals against demand orders passed till 31.03.2023 under Section 73 or 74 of the CGST Act, 2017

Taxable persons

- who could not file an appeal against the order passed by the proper officer on or before 31.03.2023 under section 73 or 74 within 3 months specified in section 107(1) or the extended period of 1 month as specified under section 107(4) of the CGST Act, and
- whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in section 107, shall file an appeal against the said order in FORM GST APL-01 in accordance with section 107(1) on or before 31st day of January 2024.

Further, an appeal against the said order filed in accordance with the provisions of section 107 of the Act, and pending before the Appellate Authority before the issuance of this notification, shall be deemed to have been filed in accordance with this notification, if the appellant has paid:

- a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- b) a sum equal to 12.5% of the remaining amount of tax in dispute arising from the said order, subject to a maximum of Rs. 25 Crore rupees, in relation to which the appeal has been filed, out of which at least 20% should have been paid by debiting from the Electronic Cash Ledger.

No refund shall be granted on account of this notification till the disposal of the appeal, in respect of any amount paid by the appellant, either on their own or on the directions of any authority (or) court, in excess of the amount paid by the appellant as specified above before the issuance of this notification, for filing an appeal section 107(1).

No appeal under this notification shall be admissible in respect of a demand not involving tax.

Furthermore, the provisions of Chapter XIII 'Appeals and Revision' of the CGST Rules, 2017 shall mutatis mutandis, apply to an appeal filed under this notification.

Notification No. 53/2023-CT dt. 02.11.2023

2. Applicability of Biometric-based Aadhar Authentication extended to Andhra Pradesh

Notification No. 27/2022-CT dt. 26.12.2022 laid down that the provisions of rule 8(4A) of CGST Rules, 2017 shall not apply in all the States and Union territories except the State of Gujarat and Puducherry thereby, implying that Biometric-Based Aadhaar Authentication and taking of photograph for completion of registration application shall be applicable only in Gujarat and Puducherry. The applicability of this notification has now been extended to Andhra Pradesh.

Notification No. 54/2023-CT dt. 17.11.2023

3. CGST (Second Amendment) Act, 2023

As recommended in the 52nd GST Council Meeting, to align the CGST Act, 2017 with the Tribunal Reforms Act, 2021, CGST (Second Amendment) Bill, 2023 has been introduced in the Lok Sabha and later passed in Rajya Sabha to amend section 110 of the CGST Act, 2017 (President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc). As per the Act,

- a person who has been an advocate for 10 years with substantial experience in litigation in matters relating to indirect taxes in the Appellate Tribunal, Customs, Excise and Service Tax Appellate Tribunal, State VAT Tribunal, High Court or Supreme Court shall also be eligible for appointment as a Judicial Member.
- a minimum age of 50 years has been fixed for appointment as a President or Member of the Tribunal.
- the maximum age of the President has been increased from 67 years to 70 years. Hence, the President of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of 70 years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.
- the maximum age of the Members have been increased from 65 years to 67 years. Hence, Judicial Member, Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of four years from the date on which he enters upon his office, or until he attains the age of 67 years, whichever is earlier and shall be eligible for re-appointment for a period not exceeding two years.

4. Judgment of the Hon'ble Supreme Court in the case of Northern Operating Systems Private Limited (NOS) not to be made applicable to all cases universally

Subsequent to the judgment of the Hon'ble Supreme Court's judgment dated 19.05.2022 in the case of *CC, CE and ST, Bangalore (Adj.) etc Vs. Northern Operating Systems Private Limited (NOS)*, proceedings have been initiated for the alleged evasion of GST on the issue of secondment under section 74(1) of the CGST Act, 2017. It was held in the said case that the secondment of employees by the overseas group company to NOS was a taxable service of 'manpower supply' and Service Tax was applicable on the same. It is noted that secondment as a practice is not restricted to Service Tax and the issue of taxability on secondment shall arise in GST also. However, there may be multiple types of arrangements in relation to secondment of employees of overseas group company in the Indian entity. In each arrangement, the tax implications may be different, depending upon the specific nature of the contract and other terms and conditions attached to it. Therefore, the decision of the Hon'ble Supreme Court in the NOS judgment should not be applied mechanically in all the cases.

The instruction has been issued to inform that section 74(1) cannot be invoked merely on account of non-payment of GST, without specific element of fraud or willful misstatement or suppression of facts to evade tax. Therefore, only in the cases where the investigation indicates that there is material evidence of fraud or willful misstatement or suppression of fact to evade tax on the part of the taxpayer, provisions of section 74(1) of CGST Act may be invoked for issuance of show cause notice, and such evidence should also be made a part of the show cause notice.

Instruction No. 05/2023-GST dt. 13.12.2023

5. Serving of the summary of notice in FORM GST DRC-01 and uploading of summary of order in FORM GST DRC-07 electronically on the portal by the proper officer

Non-issuance of the summary of such notices/ orders electronically on the portal is in clear violation of the explicit provisions of CGST Rules. Further, to keep track of the proceedings and consequential action in respect of recovery, appeal etc, subsequent to issuance of notices/ orders, the proper officers have been directed:

- to serve summary of the notice required to be issued under sections 52, 73, 74, 122, 123, 124, 125, 127, 129 and 130 of the CGST Act, 2017 in FORM DRC-01 as required under rule 142(1), electronically on the common portal, and

- to issue summary of the orders required to be issued in sections 52, 62, 63, 64, 73, 74, 75, 76, 122, 123, 124, 125, 127, 129 and 130 of the CGST Act, 2017 in FORM DRC-07 as prescribed under rule 142(5), electronically on the common portal.

Instruction No. 04/2023-GST dt. 23.11.2023

6. Extension of due date of Form GSTR-3B in selected districts of Tamil Nadu

The due date of filing of monthly return in FORM GSTR-3B for the month of November, 2023 has been extended to 27th December, 2023 for the registered persons having principal place of business in the districts of Chennai, Tiruvallur, Chengalpattu and Kancheepuram in the State of Tamil Nadu.

Notification No. 55/2023 – CT dt. 20.12.2023

7. Extension of time limit for issuance of order under section 73 for the Financial Years 2018-19 and 2019-20

As per section 73(10) of the CGST Act, the proper officer is required to issue an 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, for any reason other than fraud, willful misstatement or suppression of facts or within three years from the date of erroneous refund. *Notification No. 09/2023 -CT dated 31.03.2023* which had extended the said time limits earlier this year has been amended to further extend the time limit as follows:

Financial Year	Time period for issuing order u/s 73(10) – (As per Notification No. 09/2023 -CT dated 31.03.2023)	Extended time period for issuing order u/s 73(10)
2018-19	Up to 31.03.2024	Up to 30.04.2024
2019-20	Up to 30.06.2024	Up to 31.08.2024

Notification No. 56/2023 -CT dated 28.12.2023

8. Notification of Principal Bench of GST Appellate Tribunal

Exercising its power under section 109(3) of the CGST Act, 2017, the Central Government, on the recommendation of the Goods and Services Tax Council, has notified the constitution of Principal Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi with effect from 1st January, 2024.

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GSTN ADVISORIES

1. Pilot Project of Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants in the state of Gujarat, Puducherry and Andhra Pradesh

Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal based on data analysis and risk parameters for Biometric -Based Aadhaar Authentication and taking the photographs of the applicant along with the verification of the original copy of the documents uploaded on the common portal. The developed functionality now provides for the document verification and appointment booking process. After the submission of application in FORM GST REG-01, the applicant will receive either of the following links in the e-mail,

- a) A link for OTP-based Aadhaar Authentication, or
- b) A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification (the intimation e-mail)

If the applicant receives the link for OTP-based Aadhaar Authentication as mentioned in point (a), she/he can proceed with the application as per the existing process. However, if the applicant receives the link as mentioned in point (b), she/he will be required to book the appointment to visit the designated GSK, using the link provided in the e-mail. Once the applicant gets the confirmation of appointment through e-mail (the appointment confirmation e-mail), she/he will be able to visit the designated GSK as per the chosen schedule.

At the time of the visit of GSK, the applicant is required to carry the following details:

- a) a copy (hard/soft) of the appointment confirmation e-mail
- b) the details of jurisdiction as mentioned in the intimation e-mail
- c) Aadhaar Number
- d) the original documents that were uploaded with the application, as communicated by the intimation e-mail.

The biometric authentication and document verification will be done at the GSK, for all the required individuals as per the GST application FORM REG-01. The

applicant is required to choose an appointment for the biometric verification during the maximum permissible period for the application as indicated in the intimation e-mail. In such cases, ARNs will be generated once the Biometric-based Aadhaar Authentication process and document verification are completed. The feature of booking an appointment to visit a designated GSK is currently available for the applicants of the Gujarat, Andhra Pradesh and it will be extended to the other notified States/UTs shortly. The operation days and hours of GSKs will be as per the guidelines provided by the administration in your respective state.

2. Online Compliance Pertaining to ITC mismatch - GST DRC-01C

GSTN has developed a functionality to generate automated intimation in Form GST DRC-01C which enables the taxpayer to explain the difference in Input tax credit available in GSTR-2B statement & ITC claimed in GSTR-3B return online as directed by the GST Council. This functionality compares the ITC declared in GSTR-3B/3BQ with the ITC available in GSTR-2B/2BQ for each return period. If the claimed ITC in GSTR 3B exceeds the available ITC in GSTR-2B by a pre-defined limit or the percentage difference exceeds the configurable threshold, taxpayer will receive an intimation in the form of DRC-01C.

Upon receiving an intimation, the taxpayer must file a response using FORM DRC-01C Part B. The taxpayer has the option to either provide details of the payment made to settle the difference using FORM DRC-03, or provide an explanation for the difference, or even choose a combination of both options. In case, no response is filed by the impacted taxpayers in FORM DRC-01C Part B, such taxpayers will not be able to file their subsequent period GSTR-1/IFF.

3. Procedures and provisions related to the amnesty for taxpayers who missed the appeal filing deadline for the orders passed on or before March 31, 2023

The GST Council, in its 52nd meeting, recommended granting amnesty to taxpayers who could not file an appeal under section 107 of the CGST Act, 2017, against the demand order under section 73 or 74 of the CGST Act, 2017, passed on or before March 31, 2023, or whose appeal against the said order was rejected due to not being filed within the specified time frame in sub-section (1) of section 107. In compliance with the above GST Council recommendation, the Government has issued *Notification No. 53/2023 on November 2, 2023*.

Taxpayers can now file an appeal in FORM GST APL-01 on the GST portal on or before January 31, 2024, for the order passed by the proper officer on or before March 31, 2023. Taxpayers should make payments for entertaining the appeal by the Appellate officer as per the provisions of *Notification No. 53/2023*. The GST Portal allows taxpayers to choose the mode of payment (electronic Credit/Cash ledger), and it is the responsibility of the taxpayer to select the appropriate ledgers and make the correct payments. Further, the office of the Appellate Authority shall check the correctness of the payment before entertaining the appeal and any appeal filed without proper payment may be dealt with as per the legal provisions.

If a taxpayer has already filed an appeal and wants it to be covered by the benefit of the amnesty scheme would need to make differential payments to comply with *Notification No. 53/2023*. The payment should be made against the demand order using the “Payment towards demand” facility available on the GST portal. The navigation step for making this payment is provided: Login >> Services >> Ledgers >> Payment towards Demand.

Taxpayers who have previously filed an appeal but it was rejected as time barred in APL-02 by the Appellate Authority, then the taxpayer would be able to refile the appeal. However, in case, the taxpayers face any issue while re-filing APL-01, a ticket shall be raised on the Grievance redressal portal: <https://selfservice.gstsystem.in>. The taxpayer shall select the Category “Amnesty Scheme” and the sub-category “Amnesty scheme- Issue in appeal filing” while raising a ticket.

Furthermore, if the Appellate Authority has issued a rejection order in APL-04 due to the appeal application being time-barred, then the taxpayer has to approach the respective Appellate Authority office well in advance to comply with the dates in the said notification. The Appellate Authority after checking the eligibility of the taxpayer for the amnesty scheme will forward the case to GSTN through the State Nodal officer.

Also, it is important to note that for the APL-04 issued cases no direct representations will be entertained by GSTN or through the Grievance redressal portal. APL-04 issued cases have to be compulsorily forwarded through the State Nodal officer. Post receiving the case from the State nodal officer, GSTN will enable the taxpayer to file an appeal against the concerned order.

4. Two-factor Authentication for Taxpayers

With effect from 01.12.2023, GSTN has introduced two-factor authentication (2FA) for taxpayers to strengthen the login security in GST portal. The pilot rollout has been done for a state of Haryana and working seamlessly. Currently, 2FA will be rolled out for Punjab, Chandigarh, Uttarakhand, Rajasthan and Delhi in 1st phase. In 2nd phase, it is planned to be rolled out all states across India.

Taxpayers would need to provide one-time password (OTP) post entering user id and password, the OTP will be delivered to their Primary Authorized Signatory “Mobile number and E-mail id”. Taxpayers are requested to keep their email and mobile number of authorized signatory updated on the GST Portal for receiving the OTP communication. This OTP would only be asked, in case the tax-payer changes the system (desktop or laptop or browser) and location.

5. Date extension for reporting opening balance for ITC reversal

In order to facilitate the taxpayers in correct and accurate reporting of ITC reversal and reclaim thereof and to avoid clerical mistakes, a new ledger namely Electronic Credit and Re-claimed Statement was introduced on the GST portal. This statement was made available to help the taxpayers in tracking their ITC that has been reversed in Table 4B(2) and thereafter re-claimed in Table 4D(1) and 4A(5). To facilitate taxpayers further, opportunity to declare opening balance for ITC reversal in the statement has been extended till 31st January, 2024.

After declaring the opening balance for ITC reversal, only three amendment opportunities post the declaration will be provided to correct declared opening balance in case of any mistakes or inaccuracies in reporting. Facility to amend declared opening balance for ITC reversal will be available till 29th February, 2024.

6. Functionalities available on the portal for the GTA taxpayers

The following Functionalities are made available on the portal for the GTA Taxpayers.

- a) **Filing of Online Declaration in Annexure V and Annexure VI for the existing GTA Taxpayers:** As per the *Notification No. 06/2023-CT(R)*, dt. 26.07.2023, the option by GTA to pay GST on forward charge mechanism or the reverse charge mechanism respectively on the services

supplied by them during a financial year shall be exercised by making a declaration in Annexure V or Annexure VI from the 1st January of the current FY till 31st March of the current FY, for the next Financial Year.

To comply with the above notification, online filing in Annexure V Form and Annexure VI Form is available on the portal for the existing GTA taxpayers for filing declaration in Annexure V Form or Annexure VI Form for the succeeding FY 2024-25 from 01.01.2024 to 31.03.2024.

To Access Annexure V Form: Post login on the FO portal-Navigate to Services>>User Services>>GTA>>Opting Forward Charge Payment by GTA (Annexure V).

To Access Annexure VI Form: Post login on the FO portal-Navigate to Services>>User Services>>GTA>>Opting to Revert under Reverse Charge Payment by GTA (Annexure VI)

- b) Filing of Online Declaration in Annexure V for the Newly registered GTA Taxpayers:** As per the *Notification No. 5/2023-CT (R)dt. 09.05.2023*, the option to pay GST on forward charge mechanism on the services supplied. The newly registered taxpayers can now be able to file their declaration within the specified due date for the current FY 2023-2024 and onwards. The due date (before the expiry of 45 days from the date of applying for GST registration or one month from the date of obtaining registration whichever is later) is now being configured by the system and the same would be displayed to the newly registered taxpayers on their dashboard. The newly registered GTA taxpayers can now file their online declaration on the portal for the current FY within the specified due date.

To Access: Post login on the FO portal-Click YES on the pop-up message on post login (or) Navigate to Services>>User Services>>GTA>>Opting Forward Charge Payment by GTA (Annexure V).

- c) Uploading manually filed Annexure V Form for the FY 2023-24 on the portal:** The Existing/ Newly registered GTA taxpayers who have already submitted Declaration in Annexure V Form for the FY 2023-24 manually with the jurisdictional authority are requested to upload their duly acknowledged legible copy of the Annexure V Form on the portal, mentioning correct particulars as mentioned in the physical Annexure V submitted, with correct date of acknowledgement from jurisdictional office, where such physical Annexure V was filed for the record purposes. Further it is informed that if the

Annexure V was filed manually within the specified due date for the FY 2023-24, he need not to file it again on the portal for the FY 2024-25 or any succeeding FY. By utilizing the manual upload facility, you can upload the legible copy of duly acknowledged manually filed Annexure V for 2023-24, with correct particulars.

To Access:Post login on the FO portal-Navigate to Services>>User Services>>GTA>>Upload Manually Filed Annexure V.

As per the above notification, the option exercised by GTA to itself pay GST on the services supplied by it during a financial year shall be deemed to have been exercised for the next and future financial years unless the GTA files a declaration in Annexure VI to revert under reverse charge mechanism.

However, the GTAs who filed declaration for the FY 2024-25 on the portal for the period from 27.07.2023 till 22.08.2023 has been considered as filed and valid. Those taxpayers are requested that they need not file declaration in Annexure V Form for the subsequent financial years if they wish to continue their option for pay GST on forward charge mechanism.

7. Introduction of new Tables 14 & 15 in GSTR-1

As per *Notification No. 26/2022 – CT dt. 26th December 2022*, two new tables Table 14 and Table 15 were added in GSTR-1 to capture the details of the supplies made through e-commerce operators (ECO) on which e-commerce operators are liable to collect tax under section 52 of the Act or liable to pay tax u/s 9(5). These tables have now been made live on the GST common portal. These two new tables will be available in GSTR-1/IFF from January-2024 tax periods onwards.

8. Payment through Credit Card (CC)/Debit Card (DC) and Unified Payments Interface (UPI)

To facilitate the taxpayer registered under GST with more methods of payment, two new facilities of payment have now been provided under e-payment in addition to net-banking. The two new methods are Cards and Unified Payments Interface (UPI). Cards facility includes - Credit Card (CC) and Debit Card (DC) namely Mastercard, Visa, RuPay, Diners(CC only) issued by any Indian bank.

Payment through CC/DC/UPI can be made through Kotak Mahindra Bank irrespective of CC/DC issued by any Indian bank. Other banks are in the process of integration. At present, the facility is available in 10 states and remaining states are expected to join soon.

9. Furnishing bank account details by registered taxpayers under Rule 10A of the CGST Rules, 2017.

All Registered Taxpayers are required under the provisions of CGST Act, 2017 and the corresponding Rules framed thereunder to furnish details of their bank account(s) within 30 days of the grant of registration or before the due date of filing GSTR-1/IFF, whichever is earlier. Taxpayers are therefore advised to promptly furnish their bank account details, who have not provided it so far if 30 Days period is shortly going to expire to avoid disruption in business activities and the subsequent suspension of GSTIN.

A new functionality is being developed with the following features and will be deployed in near future:-

- 1. Failure to furnish the bank account in the stipulated time:** It would result into following:

a) Taxpayer Registration would get suspended after 30 days and intimation in FORM REG-31 will be issued to the Taxpayer.

b) Get the Taxpayer debarred from filing any further GSTR-1/IFF.

2. Revocation of Suspension: If the taxpayer updates their bank account details in response to the intimation in FORM REG-31, the suspension will be automatically revoked.

3. Cancellation of Registration: If the bank account details are not updated even after 30 days of issuance of FORM REG-31, the registration after suspension may also be taken up for cancellation process by the Officer.

Taxpayers are requested to take immediate action to provide the necessary information and avoid any adverse consequences.

COMPLIANCE SCHEDULE

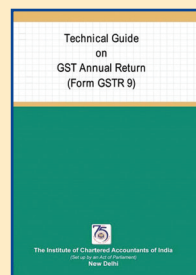
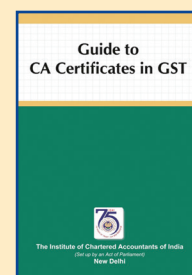
COMPLIANCES FOR THE MONTH OF FEBRUARY, 2024

Forms	Compliance Particulars	Due Dates
GSTR 7	Return to be furnished by the registered persons who are required to deduct tax at source.	10.03.2024
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.	10.03.2024
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.	11.03.2024
IFF	Statement of outward supplies by the taxpayers having an aggregate turnover upto Rs. 5 crore and who have opted for the QRMP scheme.	13.03.2024
GSTR 5	Return to be furnished by the non-resident taxable persons containing details of outward supplies and inward supplies.	13.03.2024
GSTR 6	Return to be furnished by every Input Service Distributor (ISD) containing details of the input tax credit received and its distribution.	13.03.2024
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.	20.03.2024
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 non-taxable online recipient (as defined in Integrated Goods and Services Tax Act, 2017) and to registered persons in India and details of supplies of online money gaming by a person outside India to a person in India.	20.03.2024
PMT-06	Payment of GST for a taxpayer with aggregate turnover up to Rs. 5 crores during the previous year and who has opted for quarterly filing of return under QRMP scheme.	25.03.2024

PUBLICATIONS

Guide to CA Certificates in GST

The publication “Guide to CA Certificates in GST” will assist members and other stakeholders in understanding the necessary content of certificates and the supporting documents required to diligently fulfil their duties and responsibilities. It covers every aspect of GST law that mandates the issuance of a CA certificate. Further, check points have also been included for each Certificate which may be referred by the members before certifying the credential provided by the taxpayers.

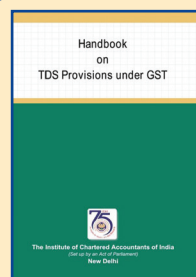


Technical Guide on GST Annual Return (Form GSTR 9)

The publication “Technical Guide on GST Annual Return” containing clause-by-clause analysis of Annual Return Form under GST law including notifications, circulars or orders issued by the Government up to 30th September, 2023.

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

The publication “GST Act(s) and Rule(s) – Bare Law” comprises of whole spectrum of GST law 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 (Amendment) Act, 2023, the Integrated Goods & Services Tax (Amendment) Act, 2023, the Central Goods & Services Tax Rules, 2017 and the Integrated Goods & Services Tax Rules, 2017. The publication is updated with all notifications issued up to December 2023 and the Central GST (Second Amendment) Act, 2023.



Handbook on TDS Provision under GST

The publication “Handbook on TDS Provision under GST” covers all TDS provisions under GST law at one place. The publication is amended for the changes taken place up to 30th September, 2023.

Background Material on GST Demands & Appellate Remedies

The publication “Background Material on GST Demands & Appellate Remedies” covers various legal and procedural aspects related to handling of GST demands and what are the appellate proceedings. The publication explains the concepts/procedures relating to the Assessment, Audit and Show Cause Notices- Approach and Reply thereto in an easy-to-understand language and it is aimed at enhancing the knowledge base of members in a simple and concise manner.



Soft copy of the publications can be accessed at-<https://idtc.icai.org/publications.php>

Link to buy the publications of the Committee- <https://icai-cds.org/>

GST QUIZ

- ABC Ltd., holding company of XYZ Ltd. has provided guarantee of Rs. 25,00,000 in relation to loan taken by XYZ Ltd. from PQR Bank without any consideration. Determine whether the guarantee provided by ABC Ltd. on behalf of XYZ Ltd. to PQR Bank is leviable to GST or not.**
 - Yes, the value of such supply shall be Rs. 25,000/-
 - Yes, the value of such supply shall be Rs. 25,00,000/-.
 - No, as it is not a supply per Schedule I.
 - No, as it is not a supply as the value of supply does not exceed Rs. 50,000/-.
- Mr. A, Haryana arranged services relating to transportation of goods by courier from Mr. X, Delhi to Mr. Y, Singapore. The transaction is entered into between Mr. A and Mr. Y. What is the place of supply in case of transaction between Mr. A and Mr. Y?**
 - Delhi
 - Haryana
 - Singapore
 - Either (a) or (b)
- A person must be informed in writing the grounds of arrest and must be produced before a Magistrate within _____, in case he is arrested for a cognizable offence.**
 - 24 hours of warrant
 - 24 hours of arrest
 - 36 hours of arrest
 - 48 hours of arrest
- The maximum penalty under CGST Act in case a person contravenes any of the provisions of the Act for which no separate penalty is provided-**
 - Rs. 25,000
 - Rs. 50,000
 - Amount of tax evaded
 - Rs. 10000 or 10% of tax evaded, whichever is higher
- “Job work” means any treatment or process undertaken by a person on goods belonging to another _____.**
 - registered person
 - unregistered person
 - taxable person
 - All of the above
- Where a special audit is required to be conducted in accordance with the provisions of section 66 of the CGST Act, the officer shall issue a direction to the registered person to get his accounts audited by-**
 - Chartered Accountant
 - Cost Accountant
 - Company Secretary
 - Either (a) or (b)
- M/s. Divya Pvt. Ltd. having its place of business in Delhi, supplied goods amounting to Rs. 3,00,000/- including GST @ 18% to a Government agency in Delhi. Determine the amount of TDS to be deducted.**
 - CGST- 2700, SGST-2700
 - CGST-2542, SGST-2542
 - CGST-3000, SGST-3000
 - No requirement to deduct TDS.
- The inputs sent for job work by Mr. X were not received back by him within a period of 1 year from the date of being sent for job work. It shall be assumed after the expiry of one year that the inputs were supplied by _____ on the day when the said inputs were sent out earlier.**
 - Mr. X to job worker
 - Job worker to Mr. Z, another registered person
 - Job worker to Mr. X
 - Mr. X to Mr. Z, another registered person
- The time limit for issuance of show cause notice under section 73 by a proper officer for FY 2019-20 is-**
 - 31.12.2023
 - 31.01.2024
 - 31.05.2024
 - 31.03.2024
- In case of change in constitution of business on account of sale, the unutilised credit of the transfer or-**
 - Shall get invariably transferred to transferee
 - Will lapse
 - Can be transferred only if there is specific provision for transfer of liabilities
 - The transferor will get refund of the unutilised credit

The names of first five members who were the top scorers in the last Quiz are as under:

Name	Membership No.
CA. Sahil Thakral	563470
CA. Jimit Doshi	145094
CA. Harshit Malviya	417172
CA. Saurabh Tekriwal	424253
CA. Parankush Tiwari	547040

Please provide reply of the above MCQs in the link given below. The names of the first 5 members who will secure highest marks would be published in the next edition.

Link to reply: <https://forms.gle/StqSqPAWRkKYcgm6>



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- ❖ Links of related important website

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

Secretary

GST & Indirect Taxes Committee

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