



# ***GST DIGEST***

**(E-MAGAZINE)**



**HARITHA HAARAM**



**Issue 5**

**Period: April to May 2021**





# GST DIGEST

(e-Magazine)

**Issue No.5**

**Period: April 2021 to May 2021**

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Published by:  
Staff College, O/o CCT,  
Telangana State, Hyderabad  
<https://tgct.gov.in/tgportal/staffcollege>  
Email:[gstdigest.ts@gmail.com](mailto:gstdigest.ts@gmail.com)  
Date of Issue: 16 July, 2021

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**MESSAGE**

The 4<sup>th</sup> edition of the e-Magazine, GST-DIGEST was released on 31-05-2021. We are acknowledging and thanking the officials of the department and other stakeholders for their suggestions and feedback.

The State of Telangana, under the dynamic leadership of Chief Secretary & Special Chief Secretary (Revenue) Sir, Sri. Somesh Kumar, IAS and Commissioner (CT) Madam Smt. Neetu Prasad, IAS, in spite of challenges posed due to corona pandemic and lockdown, has achieved excellent GST growth rate of 104% in 1<sup>st</sup> Quarter of the current financial year and continue to be the one of the best performing states in GST collections in the country.

As the changes in GST laws are dynamic, the officials need to update themselves with the latest developments. We are now coming up with the 5th edition of our magazine GST DIGEST, which is meticulously prepared to ensure that the content is precise. The DIGEST is user friendly with hyperlinks to the documents.

We want to thank our Commissioner (CT) Madam, Smt. Neetu Prasad, IAS who has allotted two more officers to the magazine team. From this edition onwards, we will be coming up with bi monthly e-Magazine instead of Quarterly for easy and timely updation in GST.

In this regard, we hope that this e-magazine will serve as a ready reference to all the officials of the department in tax administration and have a positive impact on tax collections.

Your feedback shall be highly regarded.

Thanking you all

**EDITORIAL COMMITTEE**

**Tax/Rate Notifications & Circulars**

S.No.	Reference & Subject	Brief Description																
1	<p><a href="#">Central Tax Notification No. 07/2021 dated 27-04-2021</a></p> <p>Subject: Seeks to make second amendment (2021) to CGST Rules.</p>	<ul style="list-style-type: none"> <li>Amendment to CGST rules 2017 – Inserted fourth proviso in Rule 26(1)</li> <li>A RP registered under the Companies Act, 2013 shall be allowed to furnish the return in FORM GSTR 3B or in FORM GSTR 1 or IFF by using EVC during the period April 27<sup>th</sup>, 2021 to May 31<sup>st</sup>, 2021 in place of DSC.</li> <li>COVID relief measure</li> </ul>																
2	<p><a href="#">Central Tax Notification No. 8/2021, dated 01-05-2021</a></p> <p>Subject: Lowering of interest rate for the months of March and April, 2021/Quarter ending March, 2021.</p>	<ul style="list-style-type: none"> <li>Reduction in interest rate on late filing of return / payment of tax for the months of March &amp; April 2021 – COVID relief measure</li> <li>RPs whose AATO in PFY &gt; Rs. 5 Cr <ul style="list-style-type: none"> <li>9% for first 15 days from the due date and 18% thereafter</li> </ul> </li> <li>Other RPs, the interest rate shall be <ul style="list-style-type: none"> <li>NIL for first 15 days from the due date</li> <li>9% for next 15 days and</li> <li>18% thereafter.</li> </ul> </li> </ul>																
3	<p><a href="#">Central Tax Notification No. 9/2021, dated 01-05-2021</a></p> <p>Subject: Waiver of late fees for specified taxpayers in specified tax periods COVID relief measure</p>	<table border="1"> <thead> <tr> <th>S. No.</th> <th>Aggregate Turnover in preceding FY</th> <th>Tax Period</th> <th>Period of late fee waiver</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>&gt; Rs.5 Cr</td> <td>March &amp; April 2021</td> <td>15 days from due date of furnishing return</td> </tr> <tr> <td>2</td> <td>Upto Rs.5 Cr (Monthly return)</td> <td>March &amp; April 2021</td> <td>30 days from due date of furnishing return</td> </tr> <tr> <td>3</td> <td>Upto Rs.5 Cr (Quarterly return)</td> <td>January to March 2021</td> <td>30 days from due date of furnishing return</td> </tr> </tbody> </table>	S. No.	Aggregate Turnover in preceding FY	Tax Period	Period of late fee waiver	1	> Rs.5 Cr	March & April 2021	15 days from due date of furnishing return	2	Upto Rs.5 Cr (Monthly return)	March & April 2021	30 days from due date of furnishing return	3	Upto Rs.5 Cr (Quarterly return)	January to March 2021	30 days from due date of furnishing return
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4	<p><a href="#">Central Tax Notification No. 10/2021, dated 01-05-2021</a></p> <p>Subject: Extension of due date for GSTR-4</p>	<ul style="list-style-type: none"> <li>The due date for filing annual return in Form GSTR-4 (Annual return for composition RPs) for the FY 2020-21 was extended from 30-04-2021 to 31-05-2021.</li> <li>COVID-19 Relief measure</li> </ul>																

S.No.	Reference & Subject	Brief Description
5	<p><a href="#">Central Tax Notification No. 11/2021, dated 01-05-2021</a></p> <p>Subject: Extension of due date for ITC-04</p>	<ul style="list-style-type: none"> <li>The time limit for furnishing FORM GST ITC-04 (Details of goods/capital goods sent to job worker and received back or further supplied) for the quarter Jan-Mar 2021 is extended from 25<sup>th</sup> April 2021 to 31<sup>st</sup> May, 2021.</li> <li>COVID-19 Relief measure</li> </ul>
6	<p><a href="#">Central Tax Notification No. 12/2021, dated 01-05-2021</a></p> <p>Subject: Extension of due date for GSTR-1</p>	<ul style="list-style-type: none"> <li>The time limit for furnishing FORM GSTR-1 for the tax period April, 2021 extended from 11<sup>th</sup> May, 2021 to 26<sup>th</sup> May, 2021.</li> <li>COVID-19 Relief measure</li> </ul>
7	<p><a href="#">Central Tax Notification No. 13/2021, dated 01-05-2021</a></p> <p>Subject: Third amendment to CGST Rules</p> <p>COVID-19 Relief measure</p>	<p>1) Inserted 2<sup>nd</sup> proviso in Rule 36(4)</p> <ul style="list-style-type: none"> <li>Rule 36(4) deals with spike rule for availing ITC – restriction on availing ITC in case of more than 105% of GSTR-2A.</li> <li>This proviso provides that condition (Availing ITC 5% above GSTR 2A) shall apply cumulatively for the periods April and May, 2021 and adjustment shall be made in the return of May 2021.</li> </ul> <p>2) Inserted a proviso in Rule 59(2)</p> <ul style="list-style-type: none"> <li>Rule 59(2) deals with the RPs who opted for QRMP scheme, may furnish the details of outward supplies for the first and second months of a quarter, up to a cumulative value of 50 Lakh Rupees in each of the months using IFF from the 1<sup>st</sup> day to 13<sup>th</sup> day.</li> <li>As per the inserted proviso, RP may furnish such details, for the month of April, 2021, using IFF from 1<sup>st</sup> May to 28<sup>th</sup> May, 2021.</li> </ul>
8	<p><a href="#">Central Tax Notification No. 14/2021, dated 01-05-2021</a></p> <p>Subject: COVID Relief Measures – Extension of due dates of compliance.</p>	<p>1. Any time limit for completion or compliance of any action, by any authority or by any person under the Act, which falls during the period from the 15<sup>th</sup> April 2021 to 30<sup>th</sup> May 2021, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended up to 31<sup>st</sup> May, 2021.</p>

S.No.	Reference & Subject	Brief Description
		<p>2. Extension of time shall not be applicable for the compliances of certain provisions under</p> <ul style="list-style-type: none"> <li>○ Chapter IV (Time of Supply),</li> <li>○ Section 10(3) (lapse of composition on achieving threshold turnover)</li> <li>○ Section 25 (Procedure for registration)</li> <li>○ Section 27 (Provisions related to CTP &amp; NRTP)</li> <li>○ Section 31 (Tax invoice)</li> <li>○ Section 37 (GSTR-1)</li> <li>○ Section 47 (Late fee)</li> <li>○ Section 50 (Interest)</li> <li>○ Section 69 (Arrest)</li> <li>○ Section 90 (Liability of partners to pay tax)</li> <li>○ Section 122 (Penalty)</li> <li>○ Section 129 (Detention, Seizure and Release of goods)</li> <li>○ Section 68 (Inspection of goods)</li> <li>○ Section 39 (Returns), except sub-section (3), (4) and (5) (GSTR-7, ISD Return, NRTP); and</li> <li>○ Section 68 (In, so far as e-way bill is concerned)</li> </ul> <p>and rules made thereunder related to above.</p> <p>3. Any time limit for completion of any action, by any authority or by any person, specified in, or prescribed or notified under Rule 9 (Verification of registration application and approval) falls during the period from the 1 May, 2021 to the 31 May, 2021, and where completion of such action has not been made within such time, then, the time limit for completion of such action is extended upto the 15 June, 2021.</p> <p>4. If notice has been issued for rejection of refund claim and time limit for issuance of order falls during April 15<sup>th</sup>, 2021 to May 30<sup>th</sup>, 2021, the time limit for issuance of the said order shall be extended to 15 days after the receipt of reply to the notice or May 31<sup>st</sup>, 2021 whichever is later.</p>

S.No.	Reference & Subject	Brief Description
9	<p><a href="#">Central Tax Notification No. 15/2021, dated 18-05-2021</a></p> <p>Subject: Fourth amendment to CGST Rules</p>	<ol style="list-style-type: none"> <li>1) Amendment to Rule 23(1) <ul style="list-style-type: none"> <li>• Rule 23(1) deal with Revocation of cancellation of registration.</li> <li>• In view of the amendment, time period for application of revocation of cancellation of registration can be extended by Addl. Commissioner / Joint Commissioner from 30 days to 60 days and can be further extended by Commissioner from 60 to 90 days. (Note: Please refer to Circular at Sl.No.10 for details)</li> </ul> </li> <li>2) Proviso inserted in Rule 90(3) <ul style="list-style-type: none"> <li>• Rule 90(3) says that if any deficiencies are noticed in refund application, the proper officer shall communicate the deficiencies in Form GST RFD-03, requiring the applicant to file a fresh refund application after rectification of such deficiencies.</li> <li>• As per the inserted proviso, the time gap between RFD-01 and RFD-03 shall be excluded from the period of 2 years as per Section 54(1), in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.</li> </ul> </li> <li>3) Sub-Rule (5) has been inserted in Rule 90 <ul style="list-style-type: none"> <li>• The refund Application in Form RFD-01 can be withdrawn at any time by the applicant by filing Form GST RFD-01W.</li> </ul> </li> <li>4) Sub-Rule (6) has been inserted in Rule 90 <ul style="list-style-type: none"> <li>• After submission of withdrawal of refund in FORM GST RFD-01W, any debited amount from applicant's cash/credit ledger shall be credited back to the ledger.</li> </ul> </li> <li>5) Proviso to Rule 92 (1) has been omitted <ul style="list-style-type: none"> <li>• The proviso is about order of adjustment of refund amount against outstanding demand in part A of GST RFD-07.</li> <li>• In view of insertion of Rule 92(1A) and amendment to the form GST RFD-06, w.e.f 23-03-2020, providing adjustment of outstanding demand against refund</li> </ul> </li> </ol>

S.No.	Reference & Subject	Brief Description
		<p>sanctioned, the proviso to Rule 92(1) is omitted.</p> <p>6) In Rule 92(2), a proviso has been inserted</p> <ul style="list-style-type: none"> <li>• for release of the withheld refund amount, if it is no longer liable to be withheld.</li> <li>• It is given as Part B of GST RFD-07. Earlier, there was no prescribed form for release of withheld refund amount.</li> </ul> <p>7) Rule 96 - In case of refund withheld by the proper officer of Integrated tax at Customs station, the intimation of same will be transmitted to the proper officer of CGST/SGST, who will pass an order in Part-A of Form GST RFD-07. For releasing the withheld amount, the officer has to pass an order in RFD-06 after passing an order for release of withheld refund in Part-B of Form RFD-07.</p> <p>8) Instructions to the FORM GST REG-21 (Application for Revocation of Cancellation of Registration) has been amended by inserting the expression “extension of time period by Commissioner/ADL CCT/JC/CCT...” in line with the amendment to Rule 23(1). (Note: See point No 1 above)</p> <p>9) Amendment to Rule 138 E</p> <ul style="list-style-type: none"> <li>• In rule 138E, for the words “in respect of a registered person, whether as a supplier or a recipient, who, —” the words “in respect of any outward movement of goods of a registered person, who, —” is substituted.</li> </ul> <p>Background:</p> <ul style="list-style-type: none"> <li>• E-waybill facility for a registered taxpayer was restricted for both outward and inward movement of goods if they have not furnished returns for two consecutive tax periods.</li> <li>• Now, with this amendment, the restriction is limited for outward movement of goods only.</li> </ul> <p>10) New Form GST RFD-07 (Form to be withheld / release of refund) has been substituted –</p>



S.No.	Reference & Subject	Brief Description
		<p>Part-A: withholding of Refund and Part-B: Release of withheld refund.</p> <ul style="list-style-type: none"> <li>As adjustment of demand against sanctioned refund is provided in RFD-06, form GST RFD-07 is amended accordingly and also form for release of withheld refund is provided.</li> </ul> <p>11) After Form GST RFD-01 B, FORM GST RFD-01 W (Application for Withdrawal of Refund Application) has been inserted</p>
10	<p><a href="#">Circular No. 148/04/2021 dated 18-05-2021</a></p> <p>Subject: Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017</p>	<ul style="list-style-type: none"> <li>In case of GST registration cancelled by the proper officer on his own motion, such TP may apply for revocation of cancellation of registration in FORM GST REG-21, within 30 days from the date of service of the cancellation order.</li> <li>The time period for revocation of cancellation can be extended by the Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days; and the Commissioner, for a further period not exceeding thirty days, beyond the period specified above</li> <li>Such person can apply through letter or e-mail, for extension of time limit to apply for revocation of cancellation of registration to the proper officer by providing the grounds on which such extension is sought. The request shall be forwarded to the jurisdictional Joint/Additional Commissioner/ Commissioner for decision on the request for extension of time limit.</li> <li>In case the request is accepted by the proper authority, the extension of the time limit shall be communicated to the proper officer</li> <li>In case of rejection of the request for the extension of time limit, the grounds for such rejection may be communicated to the person concerned, through the proper officer, after granting personal hearing to the person.</li> <li>The circular shall cease to have effect once the independent functionality for extension of time limit for applying in FORM GST REG-21 is developed on the GSTN portal.</li> </ul>

RP	: Registered Person
AATO	: Aggregate Annual Turn Over
PFY	: Previous Financial Year
CTNN	: Central Tax Notification Number
CRNN	: Central Rate Notification Number
IFF	: Invoice Furnishing Facility
CTP	: Casual Taxable Person
NRTP	: Non-Resident Taxable Person

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### **GST BITS**

#### **Updating Mobile number and email Id in GST portal:**

A provision is given to taxpayers for updating their mobile numbers or email Ids related to the promoter/partners by way of amendment to non-core fields of the GST registration. Non-core amendment by the TP do not require approval from the registering authority

When they want to change the mobile number/email Id on which the EVC is to be received, then the changes have to be made by the proper officer i.e., registering authority under GST Act. To make such changes, a request letter has to be submitted by the firm to the registering authority.

#### **GST registration suspension:**

The GST registration status of a TP gets suspended whenever a Show cause notice for cancellation is issued by the registering authority. E-waybill generation facility for the TPs will be disabled during such period. In such cases, the TP has to submit their reply for the notice. Reply can be given by navigating to Services -> Registration -> Application for Filing Clarifications.

The ARN of the notice can be viewed at

Services -> User Services -> View Notices and Orders

**RULINGS BY AUTHORITY FOR ADVANCE RULING**

<b>S No</b>	<b>Details</b>	<b>Gist of the Ruling</b>
1	<p><b>Applicant:</b> M/s Hadi Power Systems, Karnataka</p> <p><u><a href="#">Ruling No &amp; Date:</a></u> <u><a href="#">KAR/ADRG/18/2021 dated 06.04.2021</a></u></p> <p><b>Q.</b> Whether concessional rate of GST shall apply to the sub-contractor who is sub-contracted from a sub-contractor of the main contractor, the main contractor being provider of works contract to a Government entity?</p>	<ul style="list-style-type: none"> <li>As per entry no. 3 (iii) of NN. 11/2017-CT (Rate) dated 28.06.2017 (as amended), any taxable person providing composite supply of works contract to Central Government, State Government, Union Territory, a local authority or a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of canal, dam or other irrigation works, the supplier of service as subcontractor also liable for 12% GST.</li> <li>In the instant case, the applicant is a sub-sub-contractor to a sub-contractor who got work from main contractor to Government entity.</li> <li>Here, the privity of contract is between the applicant and the sub-contractor. The supply made by the applicant is not covered entry no.3 (iii) or no.3 (vi) or no.3 (ix) of NNo. 11/2017. Hence, the applicant has to discharge tax @18% GST.</li> </ul>
2	<p><b>Applicant:</b> Guitar Head Publishing LLP, Karnataka</p> <p><u><a href="#">Ruling No &amp; Date :</a></u> <u><a href="#">KAR/ADRG/23/2021 dated 16.04.2021</a></u></p> <p><b>Q.</b> The applicant is engaged in business of selling guitar training books through their website. The applicant sends soft copy of the book to the printer located in USA, who in turn prints it, keep it</p>	<ul style="list-style-type: none"> <li>Schedule III, relevant to Section 7 of the GST Act, at clause 7 specifies that “Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India” shall be treated neither as a supply of goods nor a supply of services. Hence, the supply of books from the warehouse located in USA (non-taxable territory) to the customers located in USA, UK and Canada (non-taxable territory) without such books entering into India does not amount to supply under GST.</li> </ul>

S No	Details	Gist of the Ruling
	<p>in warehouse and then ships to the customers located in USA, UK and Canada.</p> <p>Whether the supply of books from the warehouse located in USA (non-taxable territory) to the customers located in USA, UK and Canada (non-taxable territory) without such books entering into India, by the applicant, are treated as supply under GST?</p> <p>Whether charges for printing of books charged by the Printer located in USA (non-taxable territory) are taxable under Reverse Charge Mechanism under GST, where only content is supplied by the applicant?</p>	<ul style="list-style-type: none"> <li>• According to Para 2 of circular No. 11/11/2017-GST dated 20.11.2017, supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or supply of services would be determined on the basis of what constitutes the principal supply.</li> <li>• Here, the content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer. Hence, it is a supply of printing, which falls under service. According to section 13 of IGST Act, this service qualifies to be an import of service, in the hands of the applicant. Hence the printing charges for printing of books charged by the Printer located in USA is taxable under Reverse Charge Mechanism under GST.</li> </ul>
3	<p><b>Applicant:</b> Page Industries Ltd, Karnataka, AAAR</p> <p><u><a href="#">Appeal Order No &amp; Date: KAR/AAAR/05/2021 dated 16.04.2021</a></u></p> <p><b>Q.</b> The Appellant is a manufacturer of garments which are sold through their own outlets and also through their distributors and retail dealers. For the purpose of promoting their brand and products, the Appellant procures various items which are used in the showrooms for display of their products as</p>	<ul style="list-style-type: none"> <li>• These distributable/give away items are supplied at will, free of cost to the franchisees, distributors and retailers. The GST law has not specifically defined the term “gift”. Hence one must turn to the definition provided under Section 2(xii) of the Gift Tax Act which defines gift as the transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration in money or money’s worth. Thus, it can be said that in this case, these give away promotional items which are distributed at the sole discretion of the Appellant without any contractual obligation or consideration, acquires the character of gifts. Hence, this</li> </ul>

S No	Details	Gist of the Ruling
	<p>well as for advertising their products. Further, the Appellant also procures certain give away items such as carry bags, dairies, and pens with their brand name embossed, which are distributed to the showrooms and retailers for giving away to customers who purchase their products.</p> <p>Whether the Promotional Products/Materials &amp; Marketing items used by the Appellant in promoting their brand &amp; marketing their products can be considered as “inputs” as defined in Section 2(59) of the Act and GST paid on the same can be availed as input tax credit in terms of Section 16 of the Act, 2017 or not?</p>	<p>supply is a non-taxable supply and ineligible for input tax credit.</p> <ul style="list-style-type: none"> <li>• The goods procured on payment of GST which are disposed of by way of gifts are barred from being eligible for input tax credit in terms of Section 17(5)(h), even if they are used in the course or furtherance of business.</li> <li>• Therefore, the tax paid on such purchases is not eligible for ITC.</li> </ul>
4	<p><b>Applicant:</b> Bowring Institute, Karnataka</p> <p><b>Ruling No &amp; Date:</b> <a href="#">KAR/ADRG/27/2021 dated 22.04.2021</a></p> <p><b>Q.</b> The applicant is a club and a non-profit organisation. The members contribute by way of subscription fees and infrastructure development fund. In addition to the subscription fees at the time of admission of the member, an admission fee as an infrastructure development fund is collected which is used for the purposes of provision of services and goods and a reading room, library, chambers for accommodating family and guests, a bar and sports facilities.</p> <p>In view of the above, the applicant sought advance ruling on the</p>	<ul style="list-style-type: none"> <li>• In several cases related to clubs, judgements were given applying the doctrine of mutuality and those clubs were exempted from tax. It has to be noticed that Section 108 of Finance Act 2021 brought in a retrospective amendment to CGST Act, 2017, w.e.f 01-07-2017, which inserted the following clause after clause (a) in section 7(1)</li> </ul> <p><i>(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.</i></p> <p><b>Explanation:</b> - For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be</p>

S No	Details	Gist of the Ruling
	<p>following questions: -</p> <p>Whether amount collected as membership subscription fees paid by the members of the applicant towards facilities provided by the applicant are liable as supply of service under GST?</p> <p>Whether amount collected as infrastructure development fund for the development and maintenance of the facilities provided by the applicant are liable as supply of service under GST?</p>	<p>two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”.</p> <ul style="list-style-type: none"> <li>• The Finance Act, 2021 has over ruled what the Courts have held till now and has countered the Principle of Mutuality by way of Explanation which states that the members or constituents of the club and the club are two separate entities and persons for the purpose of Section 7 of CGST Act, 2017, which defines Supply. This amendment will only come into effect on the date when Central Govt notifies the same and then the same will be notified with the corresponding amendments passed by the respective States and Union territories in respective SGST/ UTGST Act.</li> <li>• It is concluded in the ruling that unless the amended Section 7 of CGST Act, 2017 is notified, the applicant is not liable to pay GST on subscription fees and Infrastructure development fund collected from the members.</li> </ul>
5	<p><b>Applicant:</b> Ashiana Housing Limited, Tamilnadu</p> <p><u><a href="#">Ruling No &amp; Date:13/ARA/2021 dated 28.04.2021</a></u></p> <p><b>Q.</b> The Applicant is a real estate developer of a residential project under a defined arrangement in which, they hold the development rights to develop a particular parcel of land. They enter into two agreements with their customer. The First agreement is an Agreement for Sale of undivided share in land to the</p>	<ul style="list-style-type: none"> <li>• "Works contract" is not defined as a separate service in the Annexure to the Notification 11/2017 but the service descriptions at Column (3) of the notification 11/2017 mentions 'Composite supply of Works Contract' in many of the entries. The classification of service may be Construction, erection, commissioning, etc of the immovable property and the contract for execution may be a works contract, in which, while providing the service, there is a transfer of property in goods. The mode of supply does not determine the classification of Service. Classification has to be done based on the Scheme of Classification.</li> </ul>

S No	Details	Gist of the Ruling
	<p>customer. The second agreement is an Agreement for Construction, whereby the customer appoints the Applicant for construction of units on the said UDS of land. Such arrangement is under an umbrella “Indenture of undertaking” wherein the understanding of both the UDS Agreement and Construction Agreement is recorded. On completion of the construction, a Sale Deed will be executed for sale of UDS to the customer. The Construction Agreement is registered separately. The applicant is of the opinion that all these activities will form a composite supply which is not just construction service and the supply cannot be classified under S.No 3 of NN.11/2017- CT (Rate) dated 28.06.2017 whose heading is <b>Construction services</b>.</p> <p>In view of the above, the applicant sought ruling on</p> <p>Whether the activities of construction carried out by the applicant for its customer under the Construction Agreement, being composite supply of works contract are appropriately classifiable under Heading 9997, and chargeable to GST @ 18% under S.No.35 of NN.11/2017-CT(Rate) dated 28.06.2017“.</p>	<ul style="list-style-type: none"> <li>• Heading 9954 covers all construction services and it is a specific entry. Heading 9997 under Section 9 of the Scheme of classification covers 'Other services - Other Miscellaneous service' and in that Section, SAC 999799- other services nowhere else classified would naturally hold services in relation to the main heading which is community, Social or personal services. In this case, the applicant develops RREP along with all the infrastructures and constructs the 'Units 'of the RREP, i.e., construction of dwelling unit and as such it clearly falls under construction services and the contention of the applicant to classify the same under 9997 is thus not entertainable and not tenable under law.</li> <li>• Further, it may be noted that even when a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description. Here, the most specific description being <b>construction services</b>, the subject activity falls under the SAC 9954 and therefore, the classification of service is 'Construction Service' only, for the purpose of NN. 11/2017-CT (Rate) dated 28-06-2017.</li> </ul>

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**RECENT CASE LAWS ON GST**

S.No	Details	Gist of the Judgement
1	<p><b><u>M/s Radha Krishan Industries Vs State of Himachal Pradesh &amp; Ors.</u></b></p> <p>Civil Appeal No 1155 of 2021 (Arising out of SLP(C) No 1688 of 2021)</p> <p>Hon'ble Supreme court of India</p> <p>20-04-2021</p> <p>Topic: Provisional attachment-exercise of power</p> <p><u>Facts of the Case:</u></p> <ul style="list-style-type: none"> <li>The appellant challenged the provisional attachment orders issued on 28<sup>th</sup> October 2020 by the Joint Commissioner of State Taxes and Excise, provisionally attaching the appellant's receivables from its customers.</li> <li>While dismissing the writ petition on grounds of maintainability, the High Court was of the view that the appellant had an 'alternative and efficacious remedy' of an appeal under Section 107 of the HPGST Act.</li> <li>The petitioner filed appeal in Hon'ble Supreme Court.</li> </ul>	<p><u>Gist of the Judgment:</u></p> <p>(i) The Joint Commissioner while ordering a provisional attachment under section 83 was acting as a delegate of the Commissioner in pursuance of the delegation effected under Section 5(3) and an appeal against the order of provisional attachment was not available under Section 107 (1);</p> <p>(ii) The writ petition before the High Court under Article 226 of the Constitution challenging the order of provisional attachment was maintainable;</p> <p>(iii) <b>The power to order a provisional attachment of the property of the taxable person including a bank account is draconian in nature and the conditions which are prescribed by the statute for a valid exercise of the power must be strictly fulfilled;</b></p> <p>(iv) <b>The exercise of the power for ordering a provisional attachment must be preceded by the formation of an opinion by the Commissioner that it is necessary so to do for the purpose of protecting the interest of the government revenue. Before ordering a provisional attachment, the Commissioner must form an opinion on the basis of tangible material that the assessee is likely to defeat the demand, if any, and that therefore, it is necessary so to do for the purpose of protecting the interest of the government revenue.</b></p> <p>(v) The expression "necessary so to do for protecting the government revenue" implicates that the interests of the government revenue cannot be protected without ordering a provisional attachment;</p> <p>(vi) In the facts of the present case, there was a clear non-application of mind by the Joint Commissioner to the provisions of Section 83, rendering the provisional attachment illegal;</p> <p>(vii) Under the provisions of Rule 159(5), the person whose property is attached is entitled</p>



S.No	Details	Gist of the Judgement
		<p>to dual procedural safeguards: (a) An entitlement to submit objections on the ground that the property was or is not liable to attachment; and (b) An opportunity of being heard; There has been a breach of the mandatory requirement of Rule 159(5) and the Commissioner was clearly misconceived in law in coming into conclusion that he had a discretion on whether or not to grant an opportunity of being heard;</p> <p>(viii) <b>The Commissioner is duty bound to deal with the objections to the attachment by passing a reasoned order which must be communicated to the taxable person whose property is attached;</b></p> <p>(ix) <b>A final order having been passed under Section 74(9), the proceedings under Section 74 are no longer pending as a result of which the provisional attachment must come to an end;</b> and</p> <p>(x) The appellant having filed an appeal against the order passed under section 74(9), the provisions of sub-Sections (6) and (7) of Section 107 will come into operation in regard to the payment of the tax and stay on the recovery of the balance as stipulated in those provisions, pending the disposal of the appeal.</p> <ul style="list-style-type: none"> <li>• For the above reasons, we allow the appeal and set aside the impugned judgment and order of the High Court dated 1<sup>st</sup> Jan, 2021</li> </ul>
2	<p><b><u>BYTEDANCE INDIA) TECHNOLOGY PVT. LTD. Vs THE UNION OF INDIA AND OTHERS</u></b></p> <p>Hon'ble Bombay High Court</p> <p>WRIT PETITION (L) NO.8555 OF 2021</p>	<p><u>Facts of the case:</u></p> <ul style="list-style-type: none"> <li>• The D.G.G.I. had initiated inquiry into taxable services received by the petitioner from a concern located outside India without any consideration as per schedule I of CGST Act.</li> <li>• The petitioner would be liable to pay tax on import of services, which may result in revenue of Rs.78.91 crores.</li> <li>• The Principal Director General of Goods and Service Tax Intelligence, Mumbai provisionally attached petitioner's bank accounts.</li> </ul>

S.No	Details	Gist of the Judgement
	<p>Dt 06-04-2021</p> <p>Topic – Provisional Attachment – Partial Freezing of bank account.</p>	<p><u>Gist of the Judgment:</u></p> <ul style="list-style-type: none"> <li>• The petitioner submitted that they would secure revenue's concern of Rs. 78.91 crores by depositing additional amount in attached/frozen bank accounts and the bank accounts to remain attached/frozen to the extent of Rs.78.91 crores and petitioner may be allowed to operate the bank accounts over and above the amount of Rs. 78.91 crores.</li> <li>• The respondents also agreed for the same</li> <li>• The statements made on behalf of the parties, are accepted by the Hon'ble Court.</li> </ul>
3	<p><b><u>Shri Nandhi Dhall Mills India Private Limited Vs Senior Intelligence Officer</u></b></p> <p>Hon'ble Madras High Court</p> <p>W.P. No. 5192 of 2020</p> <p>Dt 07/04/2021</p> <p>Topic: - Payment of tax during inspection – refund of tax paid</p> <p><u>Facts of the case:</u></p> <ul style="list-style-type: none"> <li>• An investigation was conducted in the premises of the petitioner and various documents and registers seized.</li> <li>• In the course of that investigation, a statement was recorded from the MD, in which, he accepts the mistakes in computation of GST and assures the respondents that the liability would be discharged at the earliest with applicable interest.</li> <li>• A scheme of payment has also been set out for the</li> </ul>	<p><u>Gist of the Judgment:</u></p> <ul style="list-style-type: none"> <li>• The basis of the argument that the remittances made by the petitioner during investigation in terms of <b>Section 74(5)</b> amounts to 'self-ascertainment' is flawed as not in agreement with the submission that Section 74(5) is a statutory sanction for advance tax payment, pending final determination in assessment.</li> <li>• The decisions (Relied by Petitioner) that no collection can be insisted upon prior to a final determination of liability being made still hold the field.</li> <li>• Any acceptance under Section 74(5) will have to be in the form of either self-ascertainment or an ascertainment by the proper officer.</li> <li>• However, statement recorded at the time of search admitting GST liability and setting the scheme of installments have been retracted by the petitioner later and the petitioner has consistently and vehemently been contested the liability to tax. Importantly, the records also do not contain any ascertainment by the officer. The tabulation of payments in this case is joint, the petitioner offering a sum of Rupees Seven Crores (since retracted) and the Officer to ascertain the balance. This exercise has not been carried out and, with this, the requirement of 'ascertainment' under Section 74(5), fails.</li> <li>• <b>Merely because an assessee has, under the stress of investigation, signed a statement</b></li> </ul>

S.No	Details	Gist of the Judgement
	<p>tax remaining unpaid.</p> <ul style="list-style-type: none"> <li>• In line with the undertaking, the petitioner has, on the same day remitted a sum of Rs.1 crore in FORM GST DRC-03. The second installment of the tax Rs.1 crore was paid later.</li> <li>• However, after 5 days, the Managing Director of the petitioner has retracted his statement, the petitioner has stated that it has no liability to tax, that the MD and officials were forced to accept liability to tax and the admission was, by no means, voluntary.</li> <li>• The petitioner presses the mandamus seeking refund of the amount of Rs.2 crores paid at the time of investigation.</li> </ul>	<p><b>admitting tax liability and has also made a few payments as per the statement, cannot lead to self-assessment or self-ascertainment.</b></p> <ul style="list-style-type: none"> <li>• <b>The ascertainment contemplated under <a href="#">Section 74(5)</a> is of the nature of self-assessment and amounts to a determination which is unconditional, and not one that is retracted as in the present case.</b></li> <li>• Had such ascertainment/self-assessment been made, there would be no further proceedings contemplated, as Section 74(6) states that with ascertainment of demand in Section 74(5), no proceedings for show cause under Section 74(1) shall be issued. In this case, enquiry and investigation are on-going, personal hearings have been afforded and both the parties are fully geared towards issuing/receiving a show cause notice and taking matters forward. Thus, the understanding and application of Section 74(5) in this case, is wholly misconceived.</li> <li>• The mandamus as sought for by the petitioner is issued. The amount collected, of Rupees Two Crores shall be refunded to the petitioner within a period of four (4) weeks.</li> </ul>
4	<p><b><a href="#">BHAVESH KIRITBHAI KALANI Vs UNION OF INDIA</a></b></p> <p>The Hon'ble High Court of Gujarat at Ahmedabad.</p> <p>R/SPECIAL CIVIL APPLICATION NO. 16360 of 2020</p> <p>19-04-2021</p> <p>Topic – Provisional attachment – Third Party</p>	<p><u>Facts of the case:</u></p> <ul style="list-style-type: none"> <li>• The petitioner is proprietor of the Firm running business in the name M/s Global Corporation. His bank account was kept under provisional attachment by the Principal Commissioner of CGST, Mumbai.</li> <li>• The attachment was issued in view of a case pending against M/s Belluxa Trading Company, a non-existent firm, which is alleged of procuring bogus invoices and claiming refund of accumulated ITC against those bogus invoices. On verification, it was found that out of the refund of Rs.3.15 crores received by M/s Belluxa Trading Company, Rs.0.48 lakhs were transferred to the account of petitioner. The petitioner approached court to set aside the</li> </ul>

S.No	Details	Gist of the Judgement
		<p>attachment.</p> <p><u>Gist of the Judgment:</u></p> <ul style="list-style-type: none"> <li>• There are no proceedings against the present petitioner under Sections 62, 63, 64, 67, 73 and 74 of the Act. There is no reason therefore, to invoke section 83 against the writ applicant and proceedings. Since the proceedings are initiated by the authorities in connection with the third parties, invocation of powers under Section 83 are not available with the respondents. Therefore, the order of the provisional attachment in connection with the bank account be interfered with.</li> <li>• Attachment is ordered to be lifted and the petitioner is permitted to operate his bank account.</li> </ul>
5	<p><b><u>BANGALORE TURF CLUB LIMITED Vs THE STATE OF KARNATAKA</u></b></p> <p>The Hon'ble High Court of Karnataka at Bengaluru</p> <p>WRIT PETITION No.11168/2018 (T – RES) C/W WRIT PETITION No.11167/2018 (T – RES)</p> <p>02-06-2021</p> <p>Topic: Levy of tax on Totalisator</p> <p><u>Facts of the case:</u></p> <p>The petitioners in these writ petitions inter alia challenge the legislative intent of making the petitioners liable to pay Goods and</p>	<p><u>Gist of the Judgment:</u></p> <ul style="list-style-type: none"> <li>• Sub-section (2) of Section 7 declares actionable claims to be neither goods nor services except lottery, betting and gambling.</li> <li>• Rule 31A(3) which came into effect from 23.01.2018 declare the value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be at 100% face value of the bet or the amount paid to the totalisator.</li> <li>• Therefore, the act which deals with supply of goods, consideration, business would not apply to the function of the totalisator. Making the entire bet amount that is received by the totalisator liable for payment of GST would take away the principle that a tax can be only on the basis of consideration even under the CGST.</li> <li>• The consideration that the petitioners receive is by way of commission for planting a totalisator. This can be nothing different from that of a stock broker or a travel agent - both of whom are liable to pay GST only on the income - commission that they earn and not on all the monies that pass through them.</li> </ul>

S.No	Details	Gist of the Judgement
	<p>Services Tax ('GST' for short) on the entire bet amount received by the totalisator and declare the amendments dated 25-01-2018 which inserted Rule 31A(3) to the CGST Rules as being ultra vires the CGST Act.</p>	<ul style="list-style-type: none"> <li>• Therefore, Rule 31A(3) insofar as it declares that the value of actionable claim in the form of chance to win in a horse race of a race club to be 100% of the face value of the bet is beyond the scope of the Act.</li> <li>• Rule 31A(3) travels beyond what is conferred upon the Rule making authority under Section 9 which is the charging section, by way of an amendment to the Rule. The totalisator is brought under a taxable event without it being so defined under the Act nor power being conferred in terms of the charging section which renders the Rule being made beyond the provisions of the Act.</li> <li>• Rule 31A(3) of the Central Goods and Services Tax Rules, 2017 as amended in terms of notification dated 23.01.2018 as ultra vires the provisions of the Central Goods and Services Tax Act, 2017 Act and resultantly, quash the same only insofar as it concerns the petitioners.</li> <li>• The clarification/Circular No.27/01/2018-GST dated 4.1.2018 vide Annexure 'A' is also quashed insofar as it concerns the petitioners.</li> </ul>

**Note:** Please note that though the above information is prepared with care, it is requested to go through the actual judgment and also verify whether any further appeals are pending.

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### GST BITS

#### **GST Training:**

The Goods and Services Tax Network conducts training for Tax Payers on a regular basis.

To know the details of Training, the Tax payers can access the below Link:

<https://gstn.org.in/events-training>

**Gist of TVATAT Orders**

N. Srinivasulu, JC(ST), SR

S No	Details	Gist of the Order
1	<p><b><u>M/s. Prime Innovations &amp; Contracts, Hyderabad – TA NO. 547/2009, dt. 03-12-2018.</u></b></p> <p><b>Issue:</b> Whether non submission of Form 250 can be treated as a technical flaw but not intentional by the appellants.</p>	<ul style="list-style-type: none"> <li>The Hon'ble Tribunal upheld the orders of the lower authorities and held that as per Section 4(7)(b) and rule 17(2)(b), it is mandatory to file FORM VAT 250 to pay tax at the rate of four percent on the total value of the contract for composition dealers and there cannot be any discretion regarding the same.</li> </ul>
2	<p><b><u>M/s J.P. Printers, Hyderabad.- TA NO. 110/2010, dt. 16-03-2018.</u></b></p> <p><b>Issue:</b> Whether the job work of the appellants would come under works contract or constitute sale of books eligible for exemption under G.O.Ms.No.625, dt.31.7.1996.</p> <p>The appellants were dealers engaged in the business of printing and supply of books, journals, brochures, annual reports, posters, calendars etc., made to the order and specifications of the customers, price was fixed for a lump sum composite rate per book.</p> <p>The assessing authority assessed the applicants u/S.4(7)(a) read with Rule 17(1)(g) of the APVAT Act and Rules 2005 as works contract receipts. Whereas, the applicant claimed exemption in terms of G.O. Ms. No. 625, dt.31.7.1996.</p>	<ul style="list-style-type: none"> <li>The Hon'ble Tribunal upheld the orders of the lower authorities by relying upon the judgment of this Tribunal in Kala Jyothi Process Limited, Hyderabad Vs. The State of Andhra Pradesh (2006) 43 APSTJ 141 and held that the transaction of printing and binding of text books and magazines comes under works contract and not a contract for sale.</li> <li>Further, The Hon'ble Tribunal held that the assessment orders are pertaining to the periods under APVAT Act, 2005, but not under APGST Act, 2005. The G.O., was issued under APGST Act, 1957. The notifications issued by the Government under APGST Act have no application for the transactions falling under APVAT Act, 2005 from 1.4.2005. As per Section 7 of the VAT Act, 2005, the goods listed in Schedule I are exempt from tax. Books, periodicals and journals are mentioned in Entry 5 of Schedule I under the exempted category. But such exemption can be claimed only by the owner of the books i.e., the publishers but not the printers.</li> </ul>

S No	Details	Gist of the Order
3	<p><b><u>M/s. Moghini Enterprises, Hyderabad.- TA NO. 114/2018, dt. 06-03-2019.</u></b></p> <p><b>Issue:</b> The assessing authority passed the assessment order on unaccounted transactions by adding gross profit, assessed VAT on sales turnover at 14.5%. The appellant preferred an appeal with a delay of 124 days. The appellate authority rejected the appeal at admission stage.</p> <p>The appellant submitted that as the original order was not served on the appellant. They filed the appeal on Certified copy which was given by the C.T.O., only after satisfying himself about not receiving the original order copy. There was no endorsement on the certified copy that it was not meant for filing the appeal. Hence, the same had to be considered as the actual date of service and the appellate authority ought to have condoned the delay of 12 days in filing the appeal within the further period of 30 days as provided u/S.31(1) of the VAT Act in the first proviso appended thereto.</p>	<ul style="list-style-type: none"> <li>The Hon'ble Tribunal upheld the orders of the appellate authority and held that, as per the record produced by the dept, the original assessment order was sent by Speed Post to the appellant and as per the delivery slip submitted by the Sub-Post Master, the receiver had endorsed receiving the same on behalf of the appellant, writing the mobile number of the appellant with stamp of Moghini Enterprises. As it is served by Speed post to the place of business of the appellant and the assessment order would also disclose that the notice of assessment and reminders were also sent for service through registered post and the assessee filed his objections on receiving such notices in the said address. The mode of service and the proof filed by the postal authorities are considered sufficient to hold that it was properly served on the appellant under rule 64 of VAT Act.</li> <li>The contention of the appellant that the certified copy was given only after the department was satisfied about not receiving the original assessment order is considered not proper as mere issue of certified copy of assessment would not entitle the assessee to prefer an appeal on certified copy instead of original assessment order as he might have obtained certified copy only to overcome the limitation aspect in preferring the appeal.</li> </ul>
4	<p><b><u>M/s. Panchal Steels, Hyderabad, - TA NO. 351/2010, dt. 20-03-2019</u></b></p> <p><b>Issue:</b> Whether the Assessing Authority is justified in estimating and arriving at certain sale turnovers on the basis of the estimate book</p>	<ul style="list-style-type: none"> <li>The Hon'ble Tribunal upheld the action of the assessing authority in resorting to the estimate of the turnover based on the estimate slips found with the appellant by relying on the judgement of the Hon'ble Supreme Court in the case of <b><u>Commissioner of Sales Tax, Madhya Pradesh vs. H.M. Esufali H.M. Abdulali (32 STC p.77)</u></b> and the judgement of the</li> </ul>

S No	Details	Gist of the Order
	<p>noticed and recovered at the time of inspection by the vigilance officials.</p> <p>The assessing authority levied tax on estimated slips which contain the details of Sl. No, date of issue, quantity of material sold, size and gauge etc., and the sale value of the material, the party to whom the material was sold, hamali charges and the total amount. Further, on the back side of the last estimate of each day contained the details regarding cash received along with the names of the persons and also denomination and in which cash was received. On an average, the dealer used one book containing 100 estimate slips for every six days and that as many as 13 estimate books were used. Accordingly, the assessing authority worked out the suppressed sales for 3 months. The appellant argued that the disputed estimate slips are nothing but quotations.</p>	<p>Hon'ble A.P. High Court in the case of <u><a href="#">M/s. Vijayalakshmi &amp; Co., Aravalli vs. The State of A.P., (8 APSTJ p.110)</a></u> and the judgement of the Hon'ble Tribunal in the case of <u><a href="#">M/s. Vijaya Sales Corporation, Hyderabad vs. The State of Andhra Pradesh (14 APSTJ p.38)</a></u>.</p> <ul style="list-style-type: none"> <li>The Hon'ble Tribunal further found that these estimate slips were containing details like hamali charges and details of cash received and details of denomination of the cash received which shows that these are actual and not mere estimates and they had not explained as to why he retained the estimate slips which are normally given to the customers when they ask for a quote. The action by the assessing authority has a reasonable nexus with the recordings found in those slips.</li> </ul>

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### GST BITS

#### GST Videos:

The videos related to Goods and Services Tax, about Latest developments, Web Sessions, Trainings etc. can be viewed in Goods and Service Tax Network YouTube channel. Please click on below link for accessing the content.

<https://www.youtube.com/c/GoodsandServicesTaxNetwork>



## Recent Developments in GST Portal

### 1) Updating Core Business Activity in GST portal

- The GSTN has enabled a new feature that requires the taxpayer to select one core business activity on the GST Portal, as - Manufacturer, wholesaler/Distributor/Retailer, service providers & others, based on the highest turnover amongst them.
- A new pop-up will appear wherein the TP will have to identify his core business. If the TP wants to change it in the future, he can do it by navigating MY PROFILE>CORE BUSINESS ACTIVITY STATUS.

### 2) GSTR 2B for the QRMP TPs

Taxpayers can view and download their system generated Quarterly Form GSTR-2B for Jan-March 2021 quarter, by clicking on Auto-drafted ITC statement for the quarter by selecting the last month of the quarter. Form GSTR 2B has two sections of ITC i.e., ITC available and ITC not available (which flows from the supplier's filed IFF & Form GSTR-1, imports etc.). It also contains tax liability of taxpayer (which flows from the taxpayers own filed IFF & Form GSTR-1)

### 3) Auto-population of ITC in GSTR-3B for the QRMP TPs

- Figures of ITC available and ITC to be reversed will now be auto-populated in Table 4 of Form GSTR-3B, for the QRMP taxpayers, from their system generated quarterly Form GSTR-2B.
- On the GSTR-3B dashboard page, an additional button 'System computed GSTR-3B has also been provided, by clicking the same, system computed Form GSTR-3B can be downloaded in PDF format
- Taxpayer can edit the auto-drafted values as per their records and save the updated details. The system will show a warning message to taxpayers in case ITC available is increased by more than 5% or ITC to be reversed is reduced even partially, by them. However, the system will not stop the filing of Form GSTR-3B in such cases.

### 4) IFF facility for QRMP TPs

IFF is given as an optional facility for a QRMP taxpayer. The document saved in IFF, where it was not filed by the end date, cannot be filed anymore. Hence taxpayers are requested to declare such document in the GSTR-1 for the quarter. Hence, before filing of GSTR-1 for Jan-Mar-2021 quarter, the taxpayer must ensure that:

“Any saved but not Filed/Submitted IFF records for the first two months of the quarter i.e., month of Jan-2021 or Feb-2021 must be deleted using RESET button before filing GSTR-1 for Jan-Mar-2021 quarter. The deleted records should be added in GSTR-1 for Jan-Mar-2021 quarter”.

- 5) The option to authenticate Aadhar card or upload e-KYC documents of Partner / Promoter and Primary Authorized Signatory has been enabled in GST login of taxpayer.
- 6) The CBIC has released a copy of CGST Rules as updated till 01-06-2021.  
[https://www.cbic.gov.in/resources//htdocs-cbec/gst/010621\(Part-A\\_Rules\).pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/010621(Part-A_Rules).pdf)  
[https://www.cbic.gov.in/resources//htdocs-cbec/gst/010621\(Part-B\\_Rules\).pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/010621(Part-B_Rules).pdf)
- 7) In GSTR-1 against serial number 12, in the Table, in column 6, the words ‘Total value’ have been replaced with ‘Rate of tax’ for each HSN/SAC furnished in HSN summary from the return for tax period of May 2021 onwards. This amendment has been previously notified vide serial no. 7 of the NN. 79/2020- CT dt 15/10/2020.

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### GST BITS

#### GST COLLECTIONS:

**April 2021:** All India gross GST revenue collected in the month of April’ 2021 is at a record high of Rs. 1,41,384 crores of which CGST is Rs. 27,837 crores, SGST is Rs. 35,621 crores, IGST is Rs 68,481 crores (including Rs. 29,599 crores collected on import of goods) and Cess is Rs. 9,445 crores (including Rs. 981 crores collected on import of goods). The GST revenues during April 2021 are the highest since the introduction of GST even surpassing collections in the last month (March’2021)

**May 2021:** All India gross GST revenue collected in the month of May 2021 is ₹1,02,709 crores of which CGST is ₹17,592 crores, SGST is ₹22,653, IGST is ₹53,199 crores (including ₹26,002 crores collected on import of goods) and Cess is ₹ 9,265 crores (including ₹868 crores collected on import of goods). The revenues for the month of May 2021 are 65% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 56% higher and the revenues from domestic transaction (including import of services) are 69% higher than the revenues from these sources during the same month last year. This would be eighth month in a row that GST revenues have crossed ₹ 1 lakh crore mark.

## Digital Audit and Assessment

By

S.V. Kasi Visweswara Rao  
Addl Commissioner (ST)

- The concept of audit and assessment in taxation go hand-in-hand for ensuring collection of legitimate taxes due to the Government so that all welfare measures for the needy citizens can be implemented without any financial hindrances.
- An effective audit program should ensure:
  - Promotion of voluntary compliance
  - Identify areas of law, in order to minimise colourable devices and tax planning.

In the long run, it is also a policy input hence audit needs to be conducted in a scientific and objective manner so as to make tax administration a cost-effective system, ensure highest possible compliance and do away with the invasive mechanisms causing pains to the taxpayers.

- We all know that tax audits are selectively conducted based on risk analysis of tax payers. Earlier, risk analysis was very subjective mainly due to lack of collation and analysis of data on scientific basis.
- This kind of risk analysis sometimes included computer assisted audit selection wherein the cases were picked up for audit indiscriminately such as,
  - All such cases having refund.
  - All such cases where utilization of input tax is beyond a certain threshold etc.,

Such broad criteria, most of the times could not differentiate grain from the chaff and many honest tax payers were unnecessarily put to trouble both during and after the audit process. This was mostly unintended and resulted in lack of appreciation of data-based approach.

- Traditionally, the tax departments have seen exceptional discovery of revenue by way of audit and assessment in very rare cases. These exceptional discoveries depended on initiative and intuition of officers. Though manuals and guidance notes were prescribed, the results were not up to the mark. These audits and assessments lacked
  - Standardization
  - Collation of Data
  - Analysis of Data
  - Impersonal Approach/Faceless features
  - Non-Invasiveness

- The beauty of GST regime is that the entire tax administration is through a data driven platform. There is a huge database available to the tax administration in form of:
  - E-Way bills data
  - E-Invoice data – will digitise the entire business process
  - Sales particulars in GSTR-1
  - Similarly purchases in GSTR-2
  - TDS data in GSTR-7
  - TCS data in GSTR-8
- GSTN is handing out various exception reports which can be verified end to end. However, it is not possible to ensure through the existing system that the reports have reached finality in form of assessment order.
- In the State of Telangana, the Hon'ble Chief Secretary Sri. Somesh Kumar Sir has taken keen interest in making entire audit and assessment procedure digital in the VAT regime itself and his effort to digitise tax administration in the State has continued even in the GST regime. The Commissioner of Commercial Taxes, Telangana Smt. Neetu Prasad Madam has contributed to the process of this digitisation of the department at various levels with her continued persuasion and support to the field staff.
- Due to the initiative and guidance of Chief Secretary Sir, the State of Telangana has entered into an MOU with IIT Hyderabad who are organising, collating and analysing the data and the department is pursuing only with the defaulters so that the regular and honest tax payers are left undisturbed and the list of such honest tax payers is not even known to the jurisdiction officers.
- The IIT Hyderabad is running modules for converting exception reports into revenue yielding instruments. The VAT and State GST Department of Telangana is not contented with admiring the exception reports but the exception report is converted into active notice in the login of officers so that officer will act on each such notice.
- Telangana State GST Department is now equipped with many in house modules and Android based apps such as:
  - GSTR-09 Discrepancy module: This module has identified many cases and revenue up to Rs.600 Cr. for 2017-18 only. The system also generated draft notices to be issued through GSTN in order to save time of the assessing authority. This is a very successful module implemented by the SGST Department of Telangana with no parallel elsewhere in the country.

- Excess Credit Module (EC Module): In this module, all such TPs are identified who have claimed excess credit in GSTR-3B as against their eligible.
  - TDS, TCS & POS Modules.
- The Telangana State Officers have become acquainted with faceless assessments through online CST assessments initiated by the government wherein all the evidences are examined without the assessee attending the office.
- Similarly, in the legacy assessments, the online tools for collating the data and also calculating the liability with tax calculators were used by our officers and standardised assessment orders were made.
- The efforts made by the State of Telangana yielded good results without any pain to the honest tax payers and the State of Telangana receives the least compensation among the comity of States in the country as most of the revenue is generated by the above efforts.
- Digital audit will occupy a centre stage in the GST regime, due to its pan-India application.
- GST offers a wider scope for collating in house data and outside data such as bank data, POS (Point of Sale) Machine's data etc., due to which scientific analysis can be made so as to pin point the actual evaders of tax and conduct audit and assessment in a faceless manner.
- The Comptroller and Auditor General of India has also setup a specialized centre "Centre of Excellence in Digital Audit of Revenue (CEDAR)" at Bangalore for:
  - a) Imparting skills for effective conduct of audit in an increasingly digitized environment including the extensive use of data analytics.
  - b) Mentoring the revenue audit officers to cope with the fast-changing scenario of revenue generation, assessment and collection in the country
  - c) Evolve new methodologies and models, in the emerging areas of revenue audit

This organization will be equipped with inter-departmental data such as GST, Income Tax, Customs, DGFT, Registrar of Companies etc., and would be making a pan-India exercise to generate exception reports and audit reports for field officers in the various tax departments.

- The formation of such specialized departments for conducting digital audits at state levels will be natural corollary to CEDAR.
- The role of professionals such as Chartered Accountants, Cost Accountants, GSTPs etc who are extending accounting assistance to

the tax payers even before the accounts are finalized will be greatly increased in this scenario. Their expertise is reducing the number of exception reports generated prior to the filing of annual audit report. This will be very important contribution because the liability is tax period wise i.e., month wise under GST.

- GST Audits will be very specific and will be system assisted with a backup of huge data from different sources to substantiate a tax demand and concomitant penalties and other civil and criminal liabilities. The honest tax payers need to be protected against any unintended or venial errors they may commit. Similarly, the errand taxpayer has to be educated to adopt honest practices so as to avoid penalties. As the tax payers get educated and the proportion of compliant tax payers increases, the role of the tax officers will become limited in investigating frauds and other exceptionally belligerent evasions.

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#### **GST BITS**

##### **GST E-waybill:**

GST E-waybill system is now integrated with Fastag and RFID which enables the tax officers to undertake live vigilance. Details of the e-waybill generated for goods being carried by the vehicle is uploaded into the RFID. When the vehicle passes the RFID Tag reader on the highway, the details fed into the device gets transmitted to the government portal.

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