



# GST DIGEST

(e-Magazine)

**Issue No.7**

**Period: Aug 2021 to Sep 2021**

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## **INDEX**

- 1. Message from Editorial Committee 2**
- 2. Tax / Rate Notifications & Circulars 3**
- 3. Rulings by AAR 27**
- 4. Recent GST case laws 31**
- 5. Gist of TVATAT Orders 35**
- 6. 45<sup>th</sup> GST Council Recommendations 41**
- 7. Recent developments in GST Portal 42**

Published by:  
Staff College, O/o CCT,  
Telangana State, Hyderabad  
[https://tgct.gov.in/tgportal/gst\\_digest.aspx](https://tgct.gov.in/tgportal/gst_digest.aspx)  
Email: [gstdigest.ts@gmail.com](mailto:gstdigest.ts@gmail.com)  
Date of Issue: 29<sup>th</sup> Nov, 2021

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**MESSAGE**

The 6<sup>th</sup> edition of the e-Magazine, GST-DIGEST, was released on 14-09-2021. 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 growth rate in first half 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 7<sup>th</sup> 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. The 7<sup>th</sup> edition covers the latest developments in GST for the months of August and September, 2021.

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**

### **1. Central Tax Notification No. 32/2021, dated 29-08-2021**

Subject: 7<sup>th</sup> amendment to CGST Rules, 2021

#### 1) 4<sup>th</sup> proviso to Rule 26(1) amended

- The rule deals with method of authentication (DSC, EVC, etc.,) by the Companies to file returns, etc.
- Vide 1<sup>st</sup> proviso, company RPs shall file returns, etc., by authenticating with DSC.
- Vide 4<sup>th</sup> proviso, as a COVID relief measure, authentication by EVC is also allowed from 27<sup>th</sup> April 2021 to 31<sup>st</sup> August 2021 to file GSTR-3B & GSTR-1 by company RPs.
- This facility is extended up to 31<sup>st</sup> October 2021 with this amendment.

#### 2) 5<sup>th</sup> Proviso is inserted in Rule 138(E) with effect from 1<sup>st</sup> May 2021.

- Rule 138(E) deals with blocking of e-Waybill generation on default of two consecutive returns.
- As a COVID relief measure, e-Waybill generation is not blocked during the period 1<sup>st</sup> May 2021 to 18<sup>th</sup> August 2021 if the GSTR 3B/GSTR-1/CMP-08 has not furnished for the period March 2021 to May 2021.

#### 3) Amendment to FORM GST ASMT-14

- It is a Show Cause Notice for assessment of unregistered persons including suo-moto cancelled registrations.
- Few changes are made in the form
  - By adding Ref. No. and Date of Registration Cancellation Order
  - Deleting expression “for conducting business without registration despite being liable for registration” and
  - Adding “Address” of proper officer.

[2. Central Tax Notification No.33/2021 dated 29-08-2021](#)

Subject: Extension of cutoff date to avail reduced late fee for delay in filing of GSTR-3B returns.

- Background:
  - CTNN 19/2021 provide for reduction of late fee in case of delay in filing GSTR-3B returns for the months / quarter of July, 2017 to April, 2021.
  - Maximum late fee is reduced to Rs.500/- in case of tax return and Rs.250/- in case of NIL return. (Rs.1000/- & Rs.500/- under both the Acts respectively)
  - The return shall be filed between 1<sup>st</sup> June, 2021 and 31<sup>st</sup> August, 2021 to avail the benefit of reduced late fee.
- With this notification, the cutoff date is **extended upto 30<sup>th</sup> November, 2021 from 31<sup>st</sup> August, 2021** to avail the benefit of reduced late fee.

[3. Central Tax Notification No.34/2021 dated 29-08-2021](#)

Subject: COVID Relief Measure – Extension of due date for filing application for revocation of cancellation of registration,

- Partial Modification to CTNN 35/2020 & CTNN 14/2021.
- If the registration is cancelled under Section 29(2)(b) i.e., composition RP failed to file three consecutive returns or Section 29(2)(c) i.e., normal RP failed to file six consecutive returns and the time limit for filing application for revocation of cancellation falls between 1<sup>st</sup> March 2020 and 31<sup>st</sup> August 2021, then the time limit, in such cases, extended to 30<sup>th</sup> September, 2021.

[4. Central Tax Notification No. 35/2021, dated 24-09-2021](#)

Subject: 8<sup>th</sup> amendment to CGST Rules, 2021

1) Rule 10A was amended

- The rule deals with furnishing of bank account details on registration.

## TAX / RATE NOTIFICATIONS & CIRCULARS

- With this amendment, the details of bank account shall be in the name of the Registered Person and obtained on PAN of the Registered Person.
- A proviso is inserted specifying in case of proprietorship concern, the PAN of the proprietor shall also be linked with the Aadhaar number of the proprietor.
- Effective date yet to be notified

### 2) Inserted Rule 10B

- The RP shall undergo Aadhaar authentication in order to be eligible for:
  - filing of application for revocation of cancellation of registration
  - filing of refund application in FORM RFD-01 under rule 89.
  - refund of IGST paid on goods exported out of India.
- The person responsible for Aadhaar Authentication in case of:
  - Proprietorship concern – Proprietor
  - Partnership firm – Any partner
  - Company – MD or Whole time Director
- If Aadhaar number has not been assigned to the person required to undergo Aadhaar authentication, such person shall furnish
  - Aadhaar Enrolment ID slip; and
  - Bank passbook or Voter identity card or Passport; or Driving license.

Effective date yet to be notified

### 3) Amendment of Rule 23(1):

- With this amendment, the revocation of cancellation of registration is subject to Rule 10B i.e., Aadhaar Authentication.
- Effective date yet to be notified.

### 4) Amendment to Rule 45(3):

- It mandates quarterly furnishing of FORM GST ITC-04 i.e., details of goods/capital goods sent to a job worker and received by the principal RP.
- With effect from 01-10-2021,

- in case of a principal RP whose AATO of PFY exceeds Rs.5 crores, the periodicity of the Form is made half-yearly and
- in case of other principal RPs, it is made yearly.

5) Amendment to Rule 59(6) with effect from 01-01-2022

- Rule 59(6) prescribes a RP shall not be allowed to file GSTR-1, if he has defaulted GSTR-3B for preceding two months.
- With amendment to clause (a) of Rule 59(6), a RP shall not be allowed to file GSTR-1, if he has defaulted GSTR-3B for preceding month.
- Rule 59(6)(c) prescribes a RP, who is restricted from using ITC under rule 86B, shall not be allowed to file GSTR-1, if he has defaulted GSTR-3B for preceding month.
- With this amendment, the clause (c) is omitted as it is no longer required due to amendment to clause (a).

6) Amendment to Rule 89 of CGST Rules

- Rule 89(1) prescribes GST RFD-01 for claiming refund of any amount.
- Rule 10B mandates Aadhaar authentication for filing refund application.
- Rule 89(1) is amended accordingly by inserting the expression **“subject to the provision of Rule 10B”**
- Sub-Rule (1A) is inserted in Rule 89 prescribing time limit for claiming refund of tax which is paid to an incorrect Head (Section 77 of CGST Act / Section 19 of IGST Act). In such cases, refund can be claimed within two (2) years from the date of payment of tax to the correct Head.(For ex: IGST is paid instead of CGST / SGST or vice-versa)
- In case of payment of tax to the correct Head before coming into force of this sub-rule, the time limit prescribed is two years from the date of coming into force of this sub-rule i.e., from 24-09-2021.

7) Inserted clause (c) in Rule 96(1):

- This rule specifies shipping bill filed by an exporter of goods is deemed to be an application for refund of IGST paid on goods exported subject to filing of export manifest and GSTR-3B.

## TAX / RATE NOTIFICATIONS & CIRCULARS

- Rule 10B mandates Aadhaar authentication for filing application for refund of IGST paid on export of goods.
- Accordingly, clause (c) is inserted in 96(1) by adding one more condition that the applicant has undergone Aadhaar authentication.
- Effective date yet to be notified.

### 8) Inserted Rule 96C – Bank Account for credit of refund

- Rules 91(3), 92(4) & 94 prescribes electronically crediting to any of the bank accounts of refund applicant on sanctioning of refund by the proper officer.
- With this inserted rule, it is clarified that **Bank Account** for credit of refund shall mean such bank account of the applicant which is in the name of applicant and obtained on his PAN.
- In case of a proprietorship concern, the PAN of the proprietor shall also be linked with the Aadhaar number of the proprietor.

### [5. Central Tax Notification No.36/2021 dated 24-09-2021](#)

Subject: Amendment to CTNN 3/2021, dated 23-02-2021

- Section 25(6B) and 25(6C) prescribes Aadhaar authentication for grant of registration.
- CTNN 3/2021 prescribes list of persons (Government, Embassy, not a citizen of India, etc.,) for whom Aadhaar authentication is not applicable for grant of registration.
- Section 25(6A) prescribes Aadhaar authentication for every RP including already registered persons.
- With this amendment, Aadhaar authentication is not applicable for the notified persons in CTNN 3/2021 under section 25(6A).

### [6. Central Tax \(Rate\) NN.06/2021, dated 30-09-2021 / Integrated Tax Notification No.06/2021, dt 30-09-2021](#)

Subject: Amendment to CRNN. 11/2017/ IRNN. 8/2017 (Taxable services)

**This notification shall come into force from 01-10-2021**

a) Amendment in clause (g), item (iv) at Sl.No.3

- Works contract supplies to an entity registered under section 12AA of Income Tax Act for the purpose of centralized cooking to carry out mid-day meal scheme sponsored by the Government is liable for reduced rate of 12% GST.
- Trust / Institutions has to registered under section 12AB of Income Tax Act to claim income tax exemption.
- With this amendment, reduced rate of 12% GST is extended to entities registered under section 12AB of income tax also for the above purposes.

b) Amendment to Sl. No.17 – Item (i) is omitted and Item (ii) is modified.

- Item (i) specifies transfer of Intellectual Property (IP) right in respect of goods other than software is liable for 12% GST and item (ii) specifies transfer of IP right in respect of software is liable for 18% GST.
- The film industry classifying “distribution of films” under SAC Code 9973 and discharging liability @ 12% GST under item (i).
- There are views that “distribution of films” classifiable under SAC 999614 which attracts 18% GST.
- There is an overlap between explanatory notes to the services codes 999614 & 997332
- To rationalize the different GST rates levied on film distribution, GST rate on services falling under the SAC 999614 & 997332 is unified, by omitting item (i) and substituting the item (ii) which specifies transfer of IP right is liable for 18% GST, with this amendment.

c) Amendment to Sl. No.26 – Item (ic) is inserted.

- Service by way of job work in relation to manufacture of alcoholic liquor for human consumption is liable to 18% GST with this amendment.



## TAX / RATE NOTIFICATIONS & CIRCULARS

- To resolve the issue whether the job work services of alcoholic liquor for human consumption falls under Sl. No. 26(1)(f) liable for 5% GST treating alcoholic liquor for human consumption as “food & food products”.
- d) Amendment to Sl. No.27 – Item (i) is omitted and Item (ii) is modified.
- Services falling under SAC 9989 (Publishing, Printing and Reproduction Services, etc.,) is made liable to 18% GST
  - Background:
    - Item (i) specifies 5% GST on printing services where content is supplied by the publisher and paper etc., used for printing belong to the printer.
    - Item (ii) specifies 18% GST on the services falling under SAC 9989 other than the services falling under Item (i).
    - There were ambiguities regarding GST Rate on printed pictures, calendars, etc.
  - With this amendment, GST on “photographic and video graphic processing services” falling under SAC 998386 and printing services falling under SAC 998912 are made uniformly liable to 18% GST.
- e) Amendment to Sl. No.34 – Items (iii) & (iiia) are modified
- Background:
    - Admission to amusement parks attract 18% GST under item (iii)
    - Admission to amusement facilities including casinos, race clubs attract 28% GST under item (iiia)
    - There were requests to clarify GST Rate on services provided by amusement parks
  - With this amendment, ambiguity is removed by reframing the entries in (iii) and (iiia), specifying that
    - Item (iii): admission to theme parks etc., having joy rides, go-carting, merry go rounds, other than (iiia) is liable to 18% GST

- Item (iiia): admission to casinos or race clubs or any place having casinos or race clubs and sporting events like IPL attract 28% GST.
- f) Amendment to Sl. No.38 – Explanation is modified
- Background:
    - Entry 38 specifies 18% GST on services provided in relation to setting up of non-conventional energy units such as bio-gas plant, solar power, wind mill
    - The explanation in the entry specifies that the entry shall be read in conjunction with serial no. 234 of schedule 1 of CTNN 1/ 2017
    - Now the entry 234 of schedule I is omitted and inserted at serial no. 201A of schedule II of CTNN 1/2017 by CTNN 8/2021
  - Accordingly, the explanation in serial no. 38 is modified by substituting the expression “201A of schedule II” in place of “234 of schedule I”, by this amendment.
  - In the “Annexure: Scheme of Classification of Services”, serial number 118a & 118b inserted assigning SAC 996541 to the service – “Multimodal Transport of goods from a place in India to another place in India under group 99654”.

[7. Central Tax \(Rate\) NN. 07/2021, dated 30-09-2021](#) / [Integrated Tax \(Rate\) Notification No.07/2021, dated 30-09-2021](#)

Subject: Amendment to CRNN. 12/2017 / IRNN. 9/2017 (exempted services)

**This notification shall come in to force from 01-10-2021**

i. Amendment in Sl.No.1

- Background:
  - Services by an entity registered under Sec 12AA of the Income Tax Act by way of charitable activities is exempted from GST.
  - Trust / Institution has to register under section 12AB of Income Tax Act to claim income tax exemption.

- With this amendment, exemption is extended to entities registered under section 12AB of income tax also for the above purposes.
- ii. Amendment in Sl. No.9AA (Note: Sl. No. 10AA in case of IRNN. 9/2017)
  - Background
    - Services by and to FIFA and its subsidiaries directly or indirectly in relation to FIFA under-17 women's world cup 2020 to be hosted in India was exempted vide CTNN 21/2019.
    - Due to COVID, these games were postponed.
  - With this amendment the expression “whenever rescheduled” is inserted thereby exemption will be applicable as and when the games are organized.
- iii. Sl. No.9AB is inserted (Note: Sl. No. 10AB in case of IRNN. 9/2017)
  - Services provided by and to Asian Football Confederation and its subsidiaries directly or indirectly related to Women's Asia Cup 2022 to be hosted in India is exempted from GST.
- iv. Amendment in Sl. No.9D & Sl. No. 13 (Note: Sl. No. 10E & Sl. No. 14 in case of IRNN. 9/2017)
  - Background:
    - Services by an entity registered under Sec 12AA of the Income Tax Act by way of old age home against consideration upto Rs.25000/- per month is exempted vide Sl. No.9D.
    - Renting of precincts of a religious place by an entity registered under section 12AA of Income Tax Act is exempted if the charges for renting are under prescribed limits as per Sl. No.13.
    - Trust / Institution have to register under section 12AB of Income Tax Act to claim income tax exemption.
  - With this amendment, exemption is extended to entities registered under section 12AB of income tax also for the above purposes.

- v. Amendment in Sl. No.19A & Sl. No. 19B (Sl. No. 20A & Sl. No. 20B in case of IRNN. 9/2017)
- Background
    - Transportation service of goods by aircraft and vessel from customs station of clearance in India to a place outside India, are exempted till 30-09-2021 vide Sl.No.19A & 19B respectively.
  - With this amendment, exemption is extended upto 30-09-2022.
- vi. Sl.No.43 is omitted (Sl. No. 45 in case of IRNN. 9/2017)
- Background
    - Leasing services of rolling stock assets by the Indian Railways Finance Corporation (IRFC) to Indian Railways is NIL rated under Sl.No.43.
    - As the above service is exempt, IRFC is not entitled to claim ITC on acquisition of assets.
  - With this amendment, exemption is removed and the leasing of rolling stock is made liable for GST as per the underlying goods and IRFC is eligible for ITC thereby input tax will not stick as cost to IRFC.
- vii. Sl. No.61A is inserted (Sl. No. 64A in case of IRNN. 9/2017)
- National permit fee to a goods carriage to operate throughout India / contiguous states is exempted from GST.
- viii. Amendment in Sl. No.72 (Sl. No. 75 in case of IRNN. 9/2017)
- Background
    - Sl.No.72 exempts services provided to the Government under any training programme for which whole expenditure is borne by the Government.
    - Under the scheme Deendayal Anthoydaya Yojana – National Urban Livelihood Mission, part of the expenditure is to be borne by the trainees.
  - With this amendment, scope of exemption is expanded to exempt

## TAX / RATE NOTIFICATIONS & CIRCULARS

training services where the Government bears 75% or more of the expenditure.

ix. Amendment in Sl. No.74A & 80 (Sl. No.77A & 83 in case of IRNN. 9/2017)

- Background:
  - Services by an entity registered under Sec 12AA of the Income Tax Act by way of rehabilitation, therapy or counseling as specified in Sl.No.74A is exempted from GST.
  - Services by an entity registered under Sec 12AA of the Income Tax Act by way of by way of training or coaching in recreational activities related to Arts / Culture / Sports as specified in Sl.No.80 is exempted from GST.
  - Trust / Institution have to register under section 12AB of Income Tax Act to claim income tax exemption.
- With this amendment, exemption is extended to entities registered under section 12AB of income tax also for the above purposes.

x. Sl. No.82B is inserted (Sl. No.85B in case of IRNN. 9/2017)

- Admission to the events organized under AFC Women's Asia Cup 2022 is exempted.

### [8. Central Tax \(Rate\) NN. 08/2021, dated 30-09-2021/ Integrated Tax \(Rate\) Notification No.08/2021, dated 30-09-2021](#)

Subject: Amendment to CRNN. 01/2017 / IRNN. 1/2017 (taxable goods)

(ai): Sl.No. 71A in Schedule I (5% slab rate), is inserted:

- Background:
  - Sl. No.86 of CRNN 2/2017 exempts seeds used for sowing falling under HSN 1209.
  - Tamarind seeds even if used for any purpose other than sowing is classifiable under HSN 1209 attracting NIL rate of GST.
- With this amendment, tamarind seed meant for any use other than sowing falling under HSN 1209 is made liable for 5% GST.

(aia / ca): Sl.No.138 to Sl. No.148 in Schedule I (5% slab rate) are omitted / Sl. No.26C to 26L in Schedule-III (18% slab rate) are inserted.

- Background:
  - Goods falling under heading 26.01 to 26.10 i.e., ores and concentrates of iron, manganese, copper, nickel, cobalt, aluminum, lead, zinc, tin and chromium were liable for 5% GST under the above entries.
  - These ores and concentrates are used in the production of metal which attract 18% GST.
  - Their input services like royalty attract 18% GST. Thus, ore / concentrate suffers a significant inverted duty structure resulting in increase in prices of the metal.
- With this amendment, the above ores and concentrates are omitted from schedule-I i.e., 5% slab rate and are inserted in schedule-III, 18% slab rate.

(aiia / ba): Sl.No. 186A in Schedule I (5% slab rate) is inserted / Substituting Sl.No.80A in Schedule-II (12% slab rate)

- Background:
  - Biodiesel attracts 12% GST.
  - Ethyl alcohol supplied to oil marketing companies (OMC) for blending with petrol attracts 5% GST.
  - Reducing GST rate on biodiesel would benefit blending of biodiesel with diesel and reduced cost can be passed on to the consumer.
- With this amendment, biodiesel supplied to OMCs for blending with High-Speed Diesel is made liable for 5% GST from 12% GST and excluded the same from Sl.No.80A of Schedule-II.

(aiva / caa): Sl.No.187A in Schedule I (5% slab rate) is omitted/ Sl. No.101A in Schedule-III (18% slab rate) is inserted.

- Background:
  - Waste and scrap of plastics were liable for 5% GST.

## TAX / RATE NOTIFICATIONS & CIRCULARS

- It is a scrap and is an industrial input for goods attracting higher rate of GST.
- There are enforcement issues on mis-classification of fresh goods as scrap to avail lower GST rate.
- With this amendment, waste and scrap of plastic falling under HSN 3915 is omitted from Schedule-I (5% slab rate) and inserted in Schedule-III (18% slab rate)

(av / biv): Sl.No.234 in Schedule I (5% slab rate) is omitted / Sl.No.201A in Schedule-II (12% slab rate) is inserted

- Background:

- Solar PV Module and other renewable energy equipment falling under chapters 84, 85, 94 were liable for 5% GST.
- 5% rate of renewable equipment has created an inverted rate structure as most of their inputs attract 18% rate.

- With this amendment, renewable energy devices and parts for their manufacture such as bio-gas plant, solar power based devices, etc., falling under Sl. No.234 of Schedule-I (5% slab rate) is omitted and inserted in Schedule-II (12% slab rate).

(avi): Inserted Item No.232 in List-1 to Schedule-I (5% slab rate)

- Background:

- Drugs or medicines including their salts and esters and diagnostic test kits, specified in List 1 appended to Schedule-I is liable for 5% GST.
- List-1 has enumerated 231 items including few used in cancer treatment.
- Health Ministry has requested to reduce GST on Pembrolizumab (Keytruda), a cancer medicine.

- With this amendment GST on Pembrolizumab (Keytruda) is reduced to 5% from 12% by inserting at Item No.232 in List-I to Schedule-I.

(avii): Inserted Item No.(B)(3) in List-3 to Schedule-I (5% slab rate)..

- Background:
  - Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3 appended to Schedule-I is liable for 5% GST. (Sl. No.257)
  - The Retrofit wheel attachments are specifically designed to convert any two-wheeler scooter into a four-wheeler capable of being used by persons with lower limb disability.
- With this amendment, “Retro fitment kits for vehicles used by the disabled”, which is inserted at Item No.(B)(3) in List-3 to Schedule-I is made liable to 5% GST.

(bii / ciii): Sl.No.122 in Schedule II (12% slab rate) is omitted / Sl. No.153A in Schedule-III is substituted.

- Background:
  - There are two specific entries for the HSN 4819 i.e., Cartons, boxes and cases.
  - Sl. No. 122 of Schedule-II (12% slab rate) covers Cartons, boxes and cases of corrugated paper or paper board.
  - Sl.No. 153A of Schedule-III (18% slab rate) covers Cartons, boxes and cases of non-corrugated paper or paper board.
  - There is ambiguity on rate of tax on items such as paper sacks falling under HSN 481930 / 481940.
- With this amendment, uniform 18% GST is prescribed for all the goods falling under HSN 4819.

(biii / civ): Sl.No.127 to 132 in Schedule II (12% slab rate) are omitted / Sl. No.157A to 157F are inserted in Schedule-III (18% slab rate)

- Background:
  - Entries at Sl.No.127 to 132 in Schedule II(12% slab rate) covers goods such plans, drawings for architectural, engineering and calendars, posters, pictures, photographs etc.
  - There was a dispute regarding classification of printing



## TAX / RATE NOTIFICATIONS & CIRCULARS

service falls under service code 998386 (photographic & video graphic processing service) liable for 18% GST and service code 998912 (printing and reproduction services of recorded media on a fee or contract basis) liable for 12% GST.

- To eliminate disputes, entry at Sl. No.27 of CRNN 11/2017 is amended vide CRNN 6/2021 unifying GST Rate to 18% for all printing services.
- With this amendment printed goods falling under Chapter 49 are made liable to 18% GST from 12% GST unifying GST rate with that of supply of printing services.

(bv / cv): Sl.No.205A to 205H in Schedule-II (12% slab rate) are omitted / Sl. No. 398A to 398H are inserted in Schedule-III (18% slab rate).

- Background:
  - Diesel – Electric locomotive liable for 12% GST and its input liable for 18% or 28% leading to situation of inverted duty structure.
  - Refund of accumulated credit on inverted duty structure also denied vide CRNN 5/2017
  - GST rate was enhanced to 12% from 5% on the recommendation of 37<sup>th</sup> GST Council Meeting.
  - However, accumulation of ITC on account of duty inversion still continues.
- With this amendment, tax rate on all goods falling in Chapter 86 (Railway parts, locomotives etc.) is enhanced to 18% from 12%, by inserting entries in Schedule-III and omitting entries in Schedule-II.

(bvi / cvi): Sl.No.232 in Schedule II(12% slab rate) is omitted / Sl.No.447 in Schedule-III (18% slab rate) is substituted.

- Background:
  - Fountain pens, stylograph pens falling under HSN 9608 are kept at 18% slab rate. Also, parts and components of writing instruments are kept at 18% slab rate.

- Other pens falling under HSN 9608 is kept at 12% slab rate.
- There is inverted tax structure as parts are kept at 18% slab rate.
- With this amendment, GST rate on all pens is made 18% to achieve uniform rate on all kinds of pens and reduce tax compliance issues. Accordingly, entry at Schedule-II is omitted and at Schedule-III is substituted.

(di) Sl.No.12B is inserted in Schedule IV (28% slab rate)

- Background:
  - Aerated waters including aerated waters containing artificial sweeteners or sugar attract 28% GST and 12% CESS.
  - Fruit pulp or fruit juice based drinks attract 12% GST.
  - Non-alcoholic beer and other such beverages attract 18% GST.
  - There is a lack of clarity on carbonated beverage with fruit juice resulting in disputes.
- With this amendment, carbonated fruit beverages of fruit drink or carbonated beverages with fruit juice is kept in Schedule-IV, liable for 28% GST.
- It is also notified under Cess (Rate) Notification 1/2021 liable for 12% compensation cess apart from 28% GST.

[9. Central Tax \(Rate\) NN. 09/2021, dated 30-09-2021 / Integrated Tax \(Rate\) Notification No.09/2021, dated 30-09-2021](#)

Subject: Amendment to CRNN 02/2017 / IRNN 02/2017 (exempted goods)

- Entry at Serial No.86 “*HSN 1209: Seeds, fruit and spores, of a kind used for sowing*”
- With this amendment, the following explanation is added to the entry to clarify raw tamarind seeds for sowing only exempted from GST.  
“*Explanation: This entry does not cover seeds meant for any use other than sowing.*”
- Vide CRNN 8/2021, dated 30-09-2021, tamarind seeds meant for any

## TAX / RATE NOTIFICATIONS & CIRCULARS

use other than sowing is inserted at Sl. No.71A of Schedule-I of CRNN 1/2017 which attracts 5% GST.

### [10. Central Tax \(Rate\) NN. 10/2021, dated 30-09-2021 / Integrated Tax \(Rate\) Notification No.10/2021, dated 30-09-2021](#)

Subject: Amendment to CRNN 04/2017 / IRNN 04 /2017(RCM on goods)

- The following goods are inserted at Sl. No. 3A which attracts RCM in the hands of RP when received from any URP.

*“Following essential oils other than those of citrus fruit namely: -*

*a) Of peppermint (Menthapiperita); b) Of other mints: Spearmint oil (exmenthaspicata), Water mint-oil (exmentha aquatic), Horsemint oil (exmenthasylvestries), Bergament oil (ex-mentha citrate).”*

- This shall come in to force from 01-10-2021.

### [11. Central Tax \(Rate\) NN. 11/2021, dated 30-09-2021 / Integrated Tax \(Rate\) Notification No.11/2021, dated 30-09-2021](#)

Subject: Amendment to CRNN. 39/2017 / IRNN 40/2017(Reduced 5% GST on food preparations intended for free distribution....)

- Background:
  - CRNN 39/2017 specifies reduced 5% GST on food preparations intended for free distribution to economically weaker sections of the society under a Government Programme such as ICDS.
  - Fortified Rice Kernel (premix) (FRK) is a reconstituted rice grain made from rice flour, vitamins and minerals falls under HSN 1904 and attracts 18% GST.
- With this amendment ‘*FRK supply for ICDS or similar scheme duly approved by the Central / State Government*’ is added in the Entry, thereby making FRK supplies for ICDS purpose liable for 5% GST.
- This shall come in to force from 01-10-2021.

### [12. Central Tax \(Rate\) NN. 12/2021, dated 30-09-2021 / Integrated Tax \(Rate\) Notification No.12/2021, dated 30-09-2021](#)

Subject: Concessional rate on certain medicines from 01-10-2021 to 31-12-2021 - COVID-19 relief measure.

- Tocilizumab & Amphotericin are exempted from GST.
- Further, GST is reduced to 5% on Remdesvir, Heparin (anti-coagulant), Itolizumab, Posaconazole, Infliximab, Bamlanivimab & Etesevimab, Casirivimab & Imdevimab, 2-Deoxy-D-Glucose and Favipiravir.

### [13. Compensation Cess \(Rate\) NN. 1/2021, dated 30-09-2021](#)

Subject: Amendment to Compensation Cess (Rate) NN. 1/2017

- ‘Carbonated beverages of fruit drink or carbonated beverages with fruit juice’ falling under HSN 2202 is inserted at Sl.No.4B of Cess (Rate) NN 1/2017 and Cess (Rate) is specified as 12%.
- It is liable for 28% GST apart from above 12% compensation cess.

### [14. Circular No158/14/2021 dated 06-09-2021](#)

Subject: Clarification regarding extension of time limit to apply for revocation of cancellation of registration in view of CTNN 34/2021 dated 29-08-2021- Reg.

1. CTNN 34/2021 extended the timelines for filing application for revocation of cancellation of registration to 30-09-2021, where the due date falls between 01-03-2020 and 31-08-2021.
2. This extension is applicable for those cases where registrations have been cancelled under clause (b) or clause (c) of section 29(2) of the Act i.e., failure to furnish returns. It is clarified that, the benefit would be applicable, if application for revocation of cancellation of registration,
  - has not been filed, the same can be filed up to the extended timelines
  - has already been rejected by the proper officer but not filed appeal.
  - has already been rejected by the proper officer, filed appeal and the same is rejected
  - has been filed and pending before proper officer. In such cases, proper officer shall take the cognizance of extension of timelines.
  - has already been rejected by the proper officer, filed appeal and appeal is pending. In such cases, the appellate authorities shall take

the cognizance of extension of timelines while deciding the appeal.

3. With effect from 1<sup>st</sup> January 2021, proviso to section 30(1) of the Act provides for extension of time for filing application for revocation of cancellation of registration by 30 days by Joint Commissioner and by another 30 days by the Commissioner
4. It is clarified that:
  - Where the (30) days time limit falls between 1<sup>st</sup> March, 2020 to 31<sup>st</sup> December, 2020, the time limit to apply for revocation of cancellation of registration stands extended up to 30<sup>th</sup> September, 2021 only and
  - Where the time period of (30) days since cancellation of registration has not lapsed as on 1<sup>st</sup> January, 2021 or where the registration has been cancelled on or after 1<sup>st</sup> January, 2021, the extended time limit for applying for revocation of cancellation of registration is available from 30-09-2021 as per proviso to section 30(1).

[15. Circular No159/15/2021 dated20-09-2021](#)

Subject: Clarification on doubts related to scope of “Intermediary”

1. ‘Intermediary’ has been defined section 2(13) of the IGST Act.
2. The prerequisites of intermediary services are:
  - (i) Minimum of Three Parties: An intermediary essentially “arranges or facilitates” another supply (the “main supply”) between two or more other persons and, does not himself provide the main supply.
  - (ii) Two distinct supplies:
    - Main supply, between the two principals, which can be a supply of goods or services or securities;
    - Ancillary supply, which is the service of facilitating or arranging the main supply between the two principals.
  - (iii) This ancillary supply is supply of intermediary service and is clearly identifiable and distinguished from the main supply.
3. Intermediary service provider to have the character of an agent/broker,

etc., and does not include a person who supplies such goods or services or securities on his own account.

4. Sub-contracting for a service is not an intermediary service.
5. The specific provision of place of supply of 'intermediary services' under section 13 of the IGST Act shall be invoked only when either the location of supplier of intermediary services or location of the recipient of intermediary services is outside India.

(Note: Please read the circular for illustrations)

#### [16. Circular No160/16/2021 dated 20-09-2021](#)

Subject: Clarification in respect of certain GST related issues

##### 1. Determination of FY of a debit note w.r.t. amended Section 16(4):

- With effect from 01.01.2021, section 16(4) of the GST Act was amended, so as to delink the date of issuance of debit note from the date of the underlying invoice for purposes of availing input tax credit.
- There is a dispute regarding determination of the relevant 'financial year' for the purpose of section 16(4):
  - date of issuance of debit note, or
  - date of issuance of underlying invoice of the debit note
- It is clarified that, w.e.f. 01.01.2021, in case of debit notes, the date of issuance of debit note only determine the relevant financial year for the purpose of section 16(4) of the Act.
- For availment of ITC on or after 01.01.2021, in respect of debit notes issued **either prior to or after 01.01.2021**, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 01.01.2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 01.01.2021.
- In case of a debit note dated 7-7-2021 in respect of invoice dated 16-03-2021, the relevant FY for availment of ITC on debit note is 2021-22.
- In case of a debit note dated 10-11-2020 issued in respect of invoice dated

15-07-2019, the relevant FY is 2020-21 for availment of ITC, if ITC is not availed prior to 01-01-2021.

2. Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued by e-invoices:

- It is clarified that there is no need to carry the physical copy of tax invoice in cases of e-invoices and production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.

3. Prohibiting refund of unutilized ITC is applicable in case of exports of goods which are having NIL rate of export duty?

- It is clarified that only those goods which are actually **subjected to export duty** i.e., on which some export duty has to be paid at the time of export, is covered under the restriction imposed under section 54(3) from availment of refund of accumulated ITC.
- Goods, which are not subject to any export duty and in respect of which either NIL rate is specified or which are fully exempted from payment of export duty, would not be covered by the restriction imposed for the purpose of availment of refund of accumulated ITC

### [17. Circular No161/17/2021 dated 20-09-2021](#)

Subject: Clarification relating to export of services- Condition (v) of section 2(6) of the IGST Act 2017

- Clause (v) of Section 2(6) of IGST Act, which defines 'export of services', places a condition that, the services provided by one establishment of a person to another establishment of a same person, considered as establishments of distinct persons as per explanation 1 of section 8 of IGST Act, cannot be treated as export.
- In view of the above, it can be stated that supply of services by a branch of a foreign company, not incorporated in India, to any establishment of the said foreign company outside India, shall be treated as supply



between establishments of distinct persons and shall not be considered as “export of services”

- Similarly, any supply of service by a company incorporated in India to its branch or agency or representational office, located in any other country and not incorporated under the laws of the said country, shall also be considered as supply between establishments of distinct persons and cannot be treated as export of services.
- A company incorporated in India and a foreign company incorporated in outside India are separate “person” under the provisions of GST Act and accordingly are separate legal entities.
- In view of the above, it is clarified that
  - A company incorporated in India and a body corporate incorporated under the laws of a country outside India are separate persons under GST Act and thus are separate legal entities.
  - Accordingly, these two persons would not be considered as “merely establishments of distinct person in accordance with explanation 1 in section 8.”
  - Therefore, the following **supply of services** would not be treated as supply to merely establishments of distinct persons, and would qualify as export of services subject to other conditions.
    - Supply by subsidiary / group concern of a foreign company which is incorporated in India to the establishments of the said foreign company located outside India, incorporated outside India, or
    - Supply by company incorporated in India to its related establishments outside India which are incorporated under the laws outside India

### [18. Circular No162/18/2021 dated 25-09-2021](#)

Subject: Clarification in respect of refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act

- The term “subsequently held” in section 77 of CGST Act, 2017 covers



both the cases where the intra-State supply declared by a taxpayer, is either subsequently found by taxpayer himself or by the tax officer in any proceeding as inter-State.

- Similarly, the term “subsequently held” in section 19 of IGST Act (inter-State found as intra-State) covers both the situations.
- In view of insertion of rule 89(1A) vide CTNN 35/2021, dated 24-09-2021, it is clarified that,
  - the refund under section 77 of CGST Act/ Section 19 of IGST Act can be claimed before the expiry of two years from the date of payment of tax under the correct head, i.e., integrated tax paid in respect of subsequently held inter-State supply, or central and state tax in respect of subsequently held intra-State supply, as the case may be.
  - In cases, where the taxpayer has made the payment in the correct head before the date of issuance of CTNN 35/2021 dated 24.09.2021, the refund application under section 77 of the CGST Act/ section 19 of the IGST Act can be filed before the expiry of two years from the date of issuance of the said notification. i.e., from 24.09.2021.
  - However, refund under section 77 of the CGST Act / section 19 of the IGST Act would not be available where the taxpayer has made tax adjustment through issuance of credit note under section 34 of the CGST Act in respect of the said transaction.

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## GST DIGEST

### Abbreviations

1. AATO : Aggregate Annual Turn Over
2. IFF : Invoice Furnishing Facility
3. CTP : Casual Taxable Person
4. CTNN : Central Tax Notification Number
5. CRNN : Central Tax Rate Notification Number
6. IRNN : Integrated Tax Rate Notification Number
7. RP : Registered Person
8. PFY : Previous Financial Year
9. URP : Unregistered Person

### GST BITS

GST collections for the month of **August 2021** (Rs in Crores)

ACT	CGST	IGST			Cess	SGST	IGST settlement*	Total	Growth over same month last year
		Imports	Domestic	Total					
All India	20522	26884	29363	56247	8646	26605	-	112020	30%
Collections from Telangana	856	-	1042	-	505	1123	-	3526	26%
Contribution of Telangana (%)	4%	-	4%	-	6%	4%	-	3%	-
<b>GST accrued to Telangana</b>	-	-	-	-	-	1123	1128	2251	19%

Link to access All India GST collections is:

[http://www.gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-August\\_2021.pdf](http://www.gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-August_2021.pdf)

GST collections for the month of **September, 2021** (Rs in Crores)

ACT	CGST	IGST			Cess	SGST	IGST settlement*	Total	Growth over same month last year
		Imports	Domestic	Total					
All India	20578	29555	31356	60911	8754	26767	-	117010	23%
Collections from Telangana	877	-	968	-	479	1170	-	3494	25%
Contribution of Telangana (%)	4%	-	3%	-	5%	4%	-	3%	-
<b>GST accrued to Telangana</b>	-	-	-	-	-	1170	1302	2472	27%

(\*Note: The above revenue figures do not include Adhoc IGST Settlement)

Link to access All India GST collections is:

[http://www.gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-September\\_2021.pdf](http://www.gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-September_2021.pdf)

## RULINGS BY AUTHORITY FOR ADVANCE RULING

S. No	Details	Gist of the Ruling
1	<p>Applicant: M/s Sri Avantika Contracts (I) Limited, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/05/2021 dt 05-08-2021</a></p> <p>The applicant sought advance ruling on the following:</p> <ol style="list-style-type: none"> <li>1. Whether the construction of a building by the applicant at ADDU City in Maldives, constructed for Government of Maldives under MoU between India and Maldives through NBCCL falls within the GST net?</li> <li>2. Who is the recipient of service in the instant case?</li> <li>3. What is the place of supply?</li> </ol>	<p>The applicant, the supplier of service &amp; NBCCL, the recipient of service are located in India, therefore the place of supply is location of the recipient in view of the proviso to Section 12(3) of IGST Act. As the proviso states in case the location of immovable property is outside India and the recipient is located in India, then the place of supply is the location of the recipient. Therefore, the supply by the applicant to the NBCCL is within the ambit of GST.</p>
2	<p>Applicant: M/s Kakkirala Ramesh, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/10/2021 dt 20-09-2021</a></p> <p>Q. Whether the Godown Rent collected from the CCI for storage of 'Fully Pressed Cotton Bales' is exempted as per the CRNN 21/2019 dt 30.09.2019 as</p>	<p>As per Entry 24B of CRNN 12/2017, storage/warehousing services of raw and unmanufactured items are covered for exemption.</p> <p>Hence the warehousing services rendered by the applicant to CCI do not fall under Entry 24B of CRNN 12/2017 as inserted vide CRNN 21/2019 dated 30.09.2019 as 'Fully Pressed Cotton Bales' do not fall under raw and unmanufactured items.</p>

S. No	Details	Gist of the Ruling
	clarified in Circular No.16/16/2017-GST?	Hence the said services are taxable at 18%
3	<p>Applicant: M/s SHV Energy Pvt Ltd, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/06/2021 dt 06-08-2021</a></p> <p>Q. 1. The applicant supplies LPG to industrial users by setting up manifold at the premises of recipient and receives rental charges. The ownership of this structure lies with applicant and in the event of the recipient not lifting minimum quantity; he pays Take or Pay charges to the applicant.</p> <p>The applicant sought advance ruling on the following: Whether sale of LPG, collection of Take or Pay Charges and rental charges be treated as composite supply?</p>	<p>‘Take or Pay’ charges are meant to compensate for breach of a contract. Thus, these charges come into existence only when there is no supply of LPG. That means supply of LPG and ‘Take or Pay’ charges are mutually exclusive and can never exist together and hence the requirements of a composite supply are not fulfilled</p>
4	<p>Applicant: M/s Deccan Transco Leasing Pvt Ltd, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/08/2021 dt 17-08-2021</a></p>	<p>The applicant is liable to pay IGST on importation of lease services into India.</p> <p>It is held that his transaction does not fall under Entry 1(c) of Schedule II of the GST</p>

RULINGS BY AUTHORITY FOR ADVANCE RULING

S. No	Details	Gist of the Ruling
	<p>Q. 1. Is GST liable on leasing of tank containers from a lessor who is located outside India and the tank containers are used for transporting chemicals on international waters without the containers ever reaching the territories of India? (The applicant has an option to buy those containers either during the lease or at the end of the lease)</p> <p>The applicant contended that his transaction falls under Entry 1(c) of Schedule II of the GST Act which declares that transfer of goods on hire purchase is supply of goods.</p> <p>He further contends that since such goods never entered the territory of India, such transaction is not liable for GST.</p>	<p>Act because as per the said entry, it is mandatory for the applicant to purchase those goods at the end of their lease period</p>
5	<p>Applicant: M/s Transmission Corporation of Telangana Limited</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/09/2021 dt 14-09-2021</a></p> <p>Q. 1. Eligibility to exemption from tax on the supply of works</p>	<p>1. Taxable @18% (Since the applicant has not rendered pure services but rendered works contract services involving substantial supply of goods)</p> <p>2. Taxable @18% (These are not taxable @12% under Entry 3(vi) of CRNN 11/2017 dated 28.06.2017 as</p>

S. No	Details	Gist of the Ruling
	<p>contract services by the applicant to GHMC.</p> <p>2. Tax liability with respect to works contract services procured by the applicant from a 3<sup>rd</sup>party for supplying same services to GHMC.</p> <p>3. Eligibility to exemption from tax on supply of works contract services by the applicant to I &amp; CAD department. (State Govt. sanctions grants to them for this purpose)</p> <p>4. Tax liability with respect to works contract services procured by the applicant from a 3<sup>rd</sup> party for supplying same services to I &amp; CAD department.</p> <p>5. Tax liability for supply of works contract service by the applicant to south central railway.</p> <p>6. Tax liability for procuring works contract services by the applicant from a 3<sup>rd</sup>party in order to supply the same to south central railway</p>	<p>amended)</p> <p>3. Exempt to the extent the grants are received against supplies by applicant (Entry 9(c) in CRNN 32/2017 dated 13.10.2017 to the extent covered by the grants from Central/State Govt./Local authorities)</p> <p>4. Taxable @18% (These are not taxable @12% under Entry 3(vi) of CRNN 11/2017 dated 28.06.2017 as amended)</p> <p>5. Taxable @18%</p> <p>6. Taxable @18% (These are not taxable @12% under Entry 3(vi) of CRNN 11/2017 dated 28.06.2017 as amended)</p>

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### GST BITS

#### **GST Ready Reference on Goods:**

- **Ready Reference - GST Rates on Goods** is updated up to 31.10.2021 incorporating the CRNN 06/2021 to 12/2021, Dt. 30-09-2021. The same can be accessed at **GST DIGEST @ TGCT Portal**. To access the same, click: <https://www.tgct.gov.in/tgportal/staffcollege/Material/Ready Reference - GST Rates on Goods.pdf>

## RECENT CASE LAWS ON GST

S.No	Details	Gist of the Judgement
1	<p><a href="#">The Assistant Commissioner of State Tax and Others VS M/s Commercial Steel Limited</a></p> <p>Hon'ble Supreme Court of India</p> <p>Civil Appeal No 5121 of 2021 dt. 03-09-2021</p> <p>Topic: Statutory remedy under Section 107 – Writ Jurisdiction</p>	<p><b>Facts of The Case:</b></p> <ul style="list-style-type: none"> <li>The Hon'ble High Court of Telangana, in the exercise of its writ jurisdiction under Article 226 of the Constitution set aside the action of the revenue in collecting tax and penalty on reason of wrong destination of goods vehicle during inspection of goods in movement and directed a refund together with interest at the rate of 6% p.a.</li> </ul> <p><b>Gist of the Judgment:</b></p> <ul style="list-style-type: none"> <li>The TP had a statutory remedy under section 107. Instead of availing the remedy, he instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is: <ul style="list-style-type: none"> <li>(i) a breach of fundamental rights;</li> <li>(ii) a violation of the principles of natural justice;</li> <li>(iii) an excess of jurisdiction; or</li> <li>(iv) a challenge to the vires of the statute or delegated legislation.</li> </ul> </li> <li>In the present case, the Hon'ble Apex Court set aside the impugned order of the High Court and held that entertaining a writ petition by the High Court was not appropriate as none of the</li> </ul>

S.No	Details	Gist of the Judgement
		<p>above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. The assessment of facts would have to be carried out by the appellate authority.</p>
2	<p><a href="#">KuppanGounder P.G. Natarajan Vs Directorate General of GST Intelligence</a></p> <p><b>Hon'ble Madras High Court</b></p> <p>W.P. No. 15708 of 2021 and W.M.P. Nos. 16604 &amp; 16605 of 2021 dt. 29/07/2021</p> <p>Topic: Parallel proceedings by centre and state authorities</p>	<p><b>Facts of the case:</b></p> <ul style="list-style-type: none"> <li>• Notice for intimating discrepancies in the return, after some scrutiny was issued by the State authorities and the proceedings are in progress. Meanwhile, Central authorities issued summons to the petitioner.</li> <li>• The writ petition is filed, challenging the summons issued by the Central authorities.</li> </ul> <p><b>Gist of the Judgment:</b></p> <ul style="list-style-type: none"> <li>• The very purpose and object of Section 6(2) (b) of the Act is to ensure that on the same subject, the parallel proceedings are to be avoided. Once on a particular subject, the State authority has initiated action under the State Act, the proper officers under the Central Act are restrained to wait till the finalization of the proceedings initiated by the State authorities. However, in all circumstances, and in respect of various other proceedings, the benefit cannot be claimed by the assesseees.</li> <li>• It is to be established that <b>subject matter is one and the same</b>. Mere pendency of proceedings before the State authorities is not a</li> </ul>



## RECENT CASE LAWS ON GST

S.No	Details	Gist of the Judgement
		ground to restrain the Central authorities from issuing summons.
3	<p><a href="#">Sterne India Pvt. Ltd. Vs Union of India</a></p> <p><b>Hon'ble Karnataka High Court</b></p> <p>Writ Petition No. 12875 of 2020 (T-RES) dt. 08/09/2021</p> <p>Topic: Provisional attachment – serving of order on the person</p>	<p><b>Facts of the case:</b></p> <ul style="list-style-type: none"> <li>This Writ Petition is filed to set aside the provisional attachment of bank accounts of the petitioner under Section 83 of CGST Act.</li> </ul> <p><b>Gist of the Judgment:</b></p> <ul style="list-style-type: none"> <li>The order of provisional attachment is required to be communicated to the party affected and this requirement is necessary for a meaningful exercise of the right conferred under Rule 159(2) of CGST Rules.</li> <li>As pointed out by the Apex Court in case of <b>Radha Krishan Industries</b>, Sub-Rule (5) of Rule 159 of CGST Rules provides a right of post-provisional attachment consisting of right of (1) submitting an objection to the attachment and (2) an opportunity of being heard.</li> </ul> <p>The Form GST DRC-22 would also indicate that necessary averments relating to the proceedings launched against a taxable person is required to be contained in such notice.</p>
4	<p><a href="#">Union of India &amp;Ors Vs VKC Footsteps India Pvt Ltd.</a></p> <p>Civil Appeal No 4810 of 2021</p>	<p><b>Facts of the case:</b></p> <ul style="list-style-type: none"> <li>The Gujarat High Court noted the definition of ITC in Section 2(62) and held that Rule 89(5) restricting the refund only to input goods is</li> </ul>

S.No	Details	Gist of the Judgement
	<p>Hon'ble SUPREME COURT OF INDIA dt. 13-09-2021</p> <p>Topic: Refund of accumulated ITC on account of inverted duty structure – refund of excess ITC on input services</p>	<p><i>ultra vires</i> Section 54(3).</p> <ul style="list-style-type: none"> <li>The Madras High Court on the other hand while delivering its judgment in Tvl. Transtonnelstory Afcons Joint Venture v. Union of India declined to follow the view of the Gujarat High Court and dismissed the writ petitions challenging the validity of Rule 89(5).</li> </ul> <p><b>Judgment in brief:</b></p> <ul style="list-style-type: none"> <li>The appeals filed by the Union of India against the judgment of the Gujarat High Court in VKC Footsteps India Pvt. Ltd. and connected cases are allowed;</li> <li>The Hon'ble Supreme Court affirms the view of the Madras High Court in the case of Tvl. Transtonnelstory Afcons Joint Venture v. Union of India and disapproves of the view of the Gujarat High Court and accordingly upheld the Rule 89(5).</li> </ul>

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## GIST OF TVATAT ORDERS

### C I R C U L A R

S.R.Ref.No.C/22/2013

Date: 21-03-2014

Sub:- APVAT, APGST & CST Acts – Certain T.As disposed off by the Hon'ble Tribunal in favour of revenue – Circular instructions issued to all the officers in the State – Reg.

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The attention of all the Officers in the State are drawn to the following Orders of S.T.A.T, Hyderabad bench, Which are in favour of revenue. These orders may be used as reference for disposing assessments, appeals and revisions by the respective authorities.

**S.No.1:-T.A.No.140/2013 M/s. Cyberabad Convention Centre Pvt.Ltd., Madhapur, Hyderabad.**

Issue:- Transfer of right to use the equipment for hire like music chairs in a hotel whether liable to tax under section 4(8) of the APVAT Act 2005.

Decision:- Held that the transaction constitutes transfer of right to use goods and therefore taxable under section 4(8) of APVAT Act 2005.

**S.No.2:- T.A.No.897/2007 M/s. Yesseswin Marketing Pvt Ltd., Chanda Nagar, Hyderabad.**

Issue:- Levying tax on “Pan Masala: @ 50% under entry 194 of the First Schedule to the APGST Act, whether sustainable in law, especially when the commodity does not contain tobacco.

Decision:-Pan Masala whether including tobacco or not, shall be liable to tax @ 50%. Further held that statement of objects and reasons cannot be called in to interpret the statute.

**S.No.3:-T.A.No. 514/2005 M/s. Mc Dowell & Co. Ltd., Nacharam, Hyderabad.**

Issue:- Whether royalty for use of trademark, is liable to tax under section 5E of the APGST Act.

Decision:- Royalty collected for use of trademark is taxable as Transfer of right to use goods.

**S.No.4:-T.A.No. 600/2007 M/s. P.M. Telecom, M.G.Road, Secunderabad.**

Issue:- Can the dealer change his stand that the high sea sales which were assessed to tax as intrastate sales, were in fact interstate sales.

Decision:- The STAT relying on 14 APSTJ 87 held that the dealer cannot turn around and claim that the high sea sales which were disallowed exemption and taxed as intrastate sales are in fact interstate sales. The STAT upheld the assessment.

**S.NO.5:-T.A.No.8/2012 M/s. Maram Rama Chandraiah& Sons, Kurnool.**

Issue:- The Appellant has not used goods for business due to flood and claimed insurance as well as Input Tax Credit.

Decision:- Withdrawal of Input Tax Credit on damaged Stock is valid. However insurance claim is not taxable.

**S.No.6:-T.A.No. 159/2013 M/s. Celestial Biolabs Ltd., Hyderabad ( 3 Appeals)**

Issue:- Can the ADC admit appeal if the dealer has not paid 12 & half percent as required under section 31(1) of the APVAT Act.

Decision:- Tribunal dismissed the appeal as appellant failed to remit the requisite amount which is mandatory for an admission of the appeal.

**S.No.7:-T.A.No. 60/2011 M/s. B & R Industrial Automation Pvt. Ltd., Abids, Hyderabad- (2).**

Issue:- Whether goods purchased from outside the state the course of execution of works contract are exigible to tax under the APGST Act.

Decision:- Held that interstate purchase of goods and their incorporation into works are two different transactions and therefore such goods are liable to tax.

**S.No.8:-T.A.No. 503/2009 M/s. Pravin Electricals Pvt. Ltd., Gachibowli, Hyderabad (3).**

## GIST OF TVATAT ORDERS

Issue:- Whether the electrical contracts of the dealer are contract of sale or works contract?

Decision:- As the labour component is very minute it is a divisible contract and shall be treated as contract of sale of electrical goods, not as a works contract.

**S.No.9:-T.A.No. 742/2007 M/s. Precot Mills Ltd., Hidupur (2)**

Issue:- The dealer claimed 100% set off of tax on the local purchase of goods even though there were certain exempt transactions not eligible for setoff by claiming them goods purchased from outside the state of AP were used for exempted transactions.

Decision:- Held that the setoff should prorated as the dealer maintained only bifurcated purchase accounts and not specific manufacturing accounts for each source of purchase.

**S.No.10:-T.A.No. 833/2007 M/s. Indus Projects Pvt.Ltd., Somajiguda, Hyderabad.**

Issue:- Whether construction of embankment amounts to transfer of property in goods in the execution of works contract.

Decision:- The charges for cess and seignorage indicate transfer of property in goods and consideration received are liable to tax under section 5F of APGST Act.

**S.No.11:-T.A.No.1048/2007 M/s. Vasundhara Publications, Somajiguda, Hyderabad (3)**

Issue:- Whether Diaries are to be treated as printed books or periodicals or simply books exigible to tax?

Decision:- Diaries cannot be considered as printed books, so liable to pay tax.

**S.No.12:-T.A.No.992/2007 M/s, Aamoda Publications Pvt.Ltd., Hyderabad.**

Issue:- Whether an appeal is maintainable when payment of the admitted tax is not made within the time.

Decision:- Appeal is dismissed on the ground that appellant did not pay the admitted tax and 12.5% of the disputed tax within time stipulated by second provision to sub-section (1) of sec.19 of the APGST Act, 1957.

**S.No.13:-T.A.No.811/2007 M/s. Vasavi Food Products, Siddipet.**

Issue:- Whether, Maize and Maize powder different commodities or same?

Decision:- Maize powder is nothing but Maize product enumerated in a different Entry and therefore being a distinct commercial commodity it is not covered by the term Maize under entry 18 of third schedule of APGST Act 1957. Hence maize powder is taxable and not exempted as maize.

**S.No.14:-T.A.No.309/2007 M/s. Hindustan Cables Ltd., Hyderabad.**

Issue:- Whether a sick Industry is liable to pay 12.5% of the disputed tax for filing appeal before ADC.

Decision:- A sick industry is not exempt from the statutory requirement of paying 12.5% for filing appeal before ADC.

**S.No.15:-T.A.No.814/2007 M/s. ECC Trading Ltd., Secunderabad.**

Issue:- Can universities issue Form 'D' for making interstate purchases.

Decision:- Universities cannot issue Form 'D'.

**S.No.16:-T.A.No.916/2007 M/s. Ramani Timber, Kamareddy. (2).**

Issue:- The dealer filed AA 9 return but did not disclose certain purchases which were recorded in the books maintained specifically for the forest department. The revision authority treated the same as suppressed turnover.

Decision:- Held that non-disclosure in the annual AA 9 return amounts to suppression.

**S.No.17:-T.A.NO.841/2007 M/s. Kun Automobiles, Hyderabad (2).**

Issue:- Can the assessing authority reduce or exempt the dealer from penalty under section 51(1) of APVAT Act 2005 for late payment of tax.

Decision:- Held that Section 51 of the AP VAT Act, 2005 does not give any discretion for the assessing authority to reduce penalty or to waive the penalty.

## GIST OF TVATAT ORDERS

### **S.NO.18:-T.A.No. 173/2012 M/s. JSW Cement Ltd., Kurnool.**

Issue:- Can input tax credit is disallowed even when a start of business (Industry) make sales of scrap and other goods purchased by it.

Decision:- Held that input tax claimed must be in respect of tax paid on inputs relating to the prospective taxable business activity, i.e., manufacture of cement and therefore in light of Rule 9(4) of APVAT Rules the dealer cannot claimed input tax credit for trading turnover.

### **S.NO.19:-T.A.No. 1071/2007 M/s. Hotel Raghavendra, Chittoor.**

Issue:- Can the Assessing Authority arrive at estimated business turnover of Hotel based on few loose slips found at the time of inspection.

Decision:- Held that best judgment assessment can be made by estimating the turnovers based on material recovered at the time of inspection.

### **S.NO.20:-T.A.No. 980/2007 M/s. Annapurna Studios, Jubilee Hills, HYD.**

Issue:- Can sale of audio rights by a film producer, be taxed.

Decision:-Audio rights are goods and hence taxable .

### **S.NO.21:-T.A.No.1177/2007 M/s.Nutrine Confectionary Co.(P) Ltd., Chittoor.**

Issue:-

- a. Can the Tribunal enhance an assessment which is on appeal before it.
- b. Is there any limitation for enhancement of an assessment before the Tribunal.

Decision:- The Tribunal can enhance an assessment and bring to tax the turnovers which were not subject to tax at all the earlier levels of assessment, appeal and revision. The Tribunal is not fettered by any limitation.

### **S.NO.22:-T.A.No. 808/2007 M/s. Bio Pharma Capsules, Nallakunta, HYD.**

Issue:- What is the commodity classification of empty gelatin capsules.

Decision:- The entry drugs and medicines is a referential legislation which refers to the section 3(b) of the Drugs and Cosmetics Act and as the referred Act defines empty gelatin capsules as drugs therefore they are drugs for the purpose of sales tax also.

**S.NO.23:-T.A.No. 493/2008 M/s. TTK Health Care Ltd., HYD.**

Issue:- Can sale of machinery be taxed when the entire business is also sold albeit when the value of machinery is separately ascertained.

Decision:- Held that there is no slump sale when value of the machinery is separately ascertained.

Therefore, all the Assessing Authorities / Appellate Authorities / Revisional Authority of the Department are instructed to make a note of the judgments of the STAT, Hyderabad while passing assessment orders.

Commissioner (CT)

(Note: PS: draft prepared by Sri S.V. Kasi Visweswar Rao, the then S.R. before Tribunal, Hyderabad)

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**GST BITS**

**Two committees of state finance ministers:**

- The Finance Ministry, GOI, has set up two committees of state finance ministers which would rework rate slabs, review GST exempt items and identify potential evasion sources.
- The Group of Ministers (GoM) on rate rationalisation would review items under inverted duty structure to help minimize refund payout, and review the supply of goods and services exempt under GST with an objective to expand the tax base and eliminate breaking of input tax credit (ITC) chain.
- The GoM on GST system reforms would identify potential sources of evasion and suggest changes in business processes and IT systems to plug revenue leakage
- The decision to set up these two GoMs was taken at the 45<sup>th</sup> GST Council, meeting held on September 17, 2021

**Late fee amnesty scheme:**

- The last date to avail benefit of the late fee amnesty scheme, has been extended from existing 31.08.2021 to 30.11.2021. [Refer Notification No. 33/2021- Central Tax, dated 29.08.2021].

Link to access the above information is:

[https://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press%20Release\\_29082021.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press%20Release_29082021.pdf)



## **Major Recommendations in 45<sup>th</sup> GST Council Meeting** **(Held at Lucknow on 17-09-2021)**

- Concessional rate of tax was extended on certain drugs used in COVID treatment like Amphotericin, Remdesivir and Heparin up to 31<sup>st</sup> December 2021.
- Restaurant services through E-commerce operators like Swiggy, Zomato and transportation of passengers, by any type of motor vehicles, through ECOs like Ola and Uber are being made liable to pay tax on the services provided through them with effect from 01<sup>st</sup> January, 2022.
- Correction in Inverted Duty structure on Footwear and Textiles was approved with effect from 01<sup>st</sup> January, 2022, i.e., Increase in rate of tax on certain apparel, clothing and footwear from 5% to 12%.
- Reduction in rate of tax on certain goods like Retro fitment kits for vehicles used by the disabled, Supply of fortified Rice kernels for the schemes like ICDS, Bio-diesel supplied to OMCs for blending with diesel etc.
- In compliance with the directions issued by the Hon'ble High Court of Kerala, the issue of whether specified petroleum products should be brought within the ambit of GST was placed for consideration before the Council. After due deliberation, the Council was of the view that it was not appropriate to do so at this stage.
- On the agenda of Compensation-Scenario post June-2022, a presentation was made to the Council, wherein it was put forth that the revenue collections from Compensation Cess beyond June-2022 till April-2026 would be exhausted to repay the borrowings made during FY 2020-21 & FY 2021-22. The importance of exploring the ways and means through which GST Collections can be improved was stressed upon.
- Other decisions for streamlining compliances in GST like Aadhaar Authentication for claiming refund being made mandatory, auto population of late fee for delayed filing of GSTR-3B.
- Press release can be accessed @

[https://www.cbic.gov.in/resources//htdocs-cbec/press-release/PRESS\\_RELEASE\\_45.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/press-release/PRESS_RELEASE_45.pdf)

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## **RECENT DEVELOPMENTS IN GST PORTAL**

### **1. Implementation of CGST Rule 59(6) w.e.f 01-09-2021**

- Rule 59(6) restricts filing of GSTR1 if GSTR 3B is defaulted. According to the rule, the system will check the following before allowing to file GSTR1:
  - GSTR-3B for the previous two tax-periods (for monthly filers),  
OR
  - GSTR-3B for the previous quarterly tax period (for QRMP filers)(Note: Two (2) tax periods, is reduced to one tax period w.e.f 01-10-2021)

### **2. Self-service functionality to search Bill of Entry details which did not auto-populate in GSTR-2A**

- Inward supplies of imports/SEZ are auto populated in GSTR-2A within (2) days from reference date from ICEGATE.
- In case, any inward supplies of imports/SEZ are not reflecting in GSTR 2A, RPs can fetch the missing records from ICEGATE through the following functionality:

Login to GST Portal >**Services** > **User Services** > **Search BoE**

- Enter the Port Code, Bill of Entry Number, Bill of Entry Date and Reference Date and click the **SEARCH** button.
- If the BoE details do not appear in the Search results, click on the **QUERY ICEGATE** button, at the bottom of the screen, to trigger a query to ICEGATE.
- History of fetched BoE details from ICEGATE along with status of query are displayed after 30 minutes from the time of triggering the query.
- For more details, click on:  
[https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=Manual\\_boe.htm](https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=Manual_boe.htm)

### 3. **Advisory on number of digits in HSN on invoice and GSTR-1.**

- RPs are advised to declare HSN with 6 digits in GSTR1 if their AATO is above Rs 5 crores and in 4 digits for the rest of the RPs. The same has to be followed while raising tax invoices with effect from 1st April, 2021.
- RPs can check the HSN codes at the search functionality @ <https://services.gst.gov.in/services/searchhsnsac>
- RPs are advised not to create 6-digit HSN code by truncating/removing the last two digits (including “00”) of a valid 8-digit HSN code.
- Further, if the HSN of any Goods/Service is otherwise valid but not accepted on **GST Portal/ e-invoice Portal / e-way Bill portal**, a ticket can be raised on GST Self-Service Portal <https://selfservice.gstsystem.in>
- RPs are advised to download the latest version of Offline tool (version 3.0.4) provided on the GST portal for uploading GSTR-1 to avoid technical errors.
- There should be unique number for invoice, credit/debit note across a Financial Year. Hence RPs are advised to check the record numbers in case of ‘duplicate record’ error.

For more details access the link

@<https://tutorial.gst.gov.in/downloads/news/advisoryonhsnandgstr1.pdf>

### 4. **Form GSTR-9 for the period 2020-21 is now available for filing**

- Annual return in Form GSTR-9 and GSTR-9C for the period 2020-21 is now made available for filing by taxpayers. GSTR-9C will be available after filing GSTR-9 only.
- GSTR-9 is optional for RPs whose AATO is upto Rs 2 crores and mandatory for RPs whose AATO is Rs 2 Cr and above
- GSTR-9C is mandatory for the taxpayers with AATO Rs 5 Cr and above.

- Due date for filing annual return for the period 2020-21 is 31/12/2021.

#### 5. **Advisory on GSTR-2B**

- GSTR-2B statement indicates availability and non-availability of ITC to the RP against each document filed by their suppliers and is made available on 14th of every month.
- Additional content related to Form GSTR-2B can be accessed at below links:
  - [https://tutorial.gst.gov.in/downloads/news/updated\\_advisory\\_gstr\\_2b\\_12\\_10\\_2021.pdf](https://tutorial.gst.gov.in/downloads/news/updated_advisory_gstr_2b_12_10_2021.pdf)
  - [https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Manual\\_gstr\\_2b.htm](https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Manual_gstr_2b.htm)
  - [https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQ\\_gstr2b.htm](https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQ_gstr2b.htm)

#### 6. **Advisory regarding Generation of EWB where the principal supply is Supply of services**

- There may be situations where RP causes movement of goods for a supply which is having **service** as the principal supply. Ex: printing services, works contract services, catering services, pandal or shamiana services.
- In such cases, E-waybill can be generated by entering SAC in place of HSN, but one has to mention the details of the goods also. A new row for entering HSN can be added by clicking on “+” given in the table “Item Details”.

#### 7. **Blocking of e-waybill resumed from August 15, 2021**

Blocking of e-waybill was suspended because of the pandemic, now it is resumed. Thus, the RPs who have defaulted returns for two tax periods or more are blocked from generation of e-waybills.

8. **New Functionalities deployed on GST portal**

Sl. No	Form/Functionality	Functionality released and available for Taxpayers
1	Mandatory addition of bank account details	RPs can check the status of their bank account detail updation. In case they have not updated it within 45 days of their first-time login, the system will now prompt them to update it. For more details, please check the below link. <a href="https://www.gst.gov.in/newsandupdates/read/493">https://www.gst.gov.in/newsandupdates/read/493</a>
2	Discontinuation of Auditor's certification in Reconciliation Statement, filed in Form GSTR-9C	In terms of CT NN 30/2021, dt 30th July, 2021, the RPs can file self-certified GSTR-9C instead of getting it certified by an auditor w.e.f. FY 2020-21 onwards. Necessary changes have also been made in the offline tool and the same has been made available on the Portal under <b>Downloads.</b>
3	Changes in computation of Late Fee for filing Form GSTR-3B.	Maximum late fee for delayed GSTR-3B returns from tax period June, 2021, (monthly/quarterly) onwards, has been reduced and the same is implemented in the Portal: For Nil returns – Rs 500 For tax returns – Rs 2000 if AATO is below Rs 1.5 cr – Rs 5000 if AATO is above Rs 1.5 cr
4	AATO display on Taxpayer's Dashboard	The AATO appearing on the dashboard of RP can be updated in case of any discrepancy. This facility is being made available from FY 2020-21 onwards. For more details, please click on <a href="https://www.gst.gov.in/newsandupdates/read/492">https://www.gst.gov.in/newsandupdates/read/492</a>

9. **GST Demand Orders – Rectification**

- When a demand has been determined related to assessment, scrutiny of returns or enforcement activity, the same is to be uploaded in Form GST DRC-07. A liability will be created for the taxpayer with DRC-07.
- In case of errors in DRC-07, it can be rectified using the form DRC-08 and the same has been provided in GST Portal.

- In case of assessment demand, the tax officer can rectify the demand by navigating to **Statutory Functions -> Assessment/Adjudication -> Rectification of orders.**
- For the cases related to Enforcement activity, the option for rectification is provided inside the case details.  
In case DRC-08 is saved but not submitted, the draft will be available for 15 days for submitting.

10. **FAQs on Eway bill** unblocking can be accessed @ [https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQs\\_unblockingewaybill.htm](https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQs_unblockingewaybill.htm)

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### **GST BITS**

#### **Liability Creation through FORM GST DRC-07**

- TG CCT's Circular No. ENFT/DC-1/15/2019 Dt.26-07-2021 was issued wherein all the JCs were directed that, in case of collection of tax & penalty on inspection of goods in movement and errant tax payer did not discharge liability in Form DRC-03, liability is to be created in all such cases of detention of goods and conveyance through Form DRC-07 along with approval of Form MOV-09 in the Enforcement Module of GST BO Portal.
- For the period from 01-11-2019 to 30-06-2021, they are directed to submit the details of liability created (along with Reference IDs) officer-wise in GST BO Portal vis-à-vis details entered in EWB Portal.
- In old cases, where liability was not created, instructions issued vide CCT's Circular No. ENFT/DC-1/15/2019 dated 13-12-2019 shall be followed. For more details, please check the below documents

[Instructions dt 26-07-2021](#)

[Instructions dt 13-12-2019](#)

***Please provide your feedback here***