



# ***GST DIGEST***

**(E-MAGAZINE)**



**HARITHA HAARAM**



**Issue 8**

**Period: Oct 2021 to Jan 2022**



# GST DIGEST

(e-Magazine)

**Issue No.8**

**Period: Oct 2021 to Jan 2022**

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## MESSAGE

The 7th edition of the e-Magazine, **GST-DIGEST**, was released on 29-11-2021. 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 revenue growth in the financial year 2021-22. Telangana state continues to be the one of the best performing states in GST collections in the country.

The DIGEST is user friendly with hyperlinks to the documents. The **8th edition** covers the latest developments in GST for the months of October 2021 to January 2022.

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 \(Rate\) NN.13/2021, dated 27-10-2021 / Integrated Tax Notification No.13/2021, dt 27-10-2021](#)

Subject: Amendment to CRNN. 1/2017/ IRNN. 1/2017

- GST slab rate on permanent transfer of Intellectual property is increased from 12% to 18%.

2. [Central Tax \(Rate\) NN.14/2021, dated 18-11-2021 / Integrated Tax Notification No.14/2021, dt 18-11-2021 w.e.f. 1<sup>st</sup> Jan 2022](#)

Subject: Amendment to CRNN. 1/2017/ IRNN. 1/2017

- GST rate harmonized across the textile value chain by keeping the goods in the chain under 12% slab rate with a view to address inversion.
- GST rate on Footwear of sale value not exceeding Rs.1000 per pair is increased to 12% from 5% with a view to address inversion.

(Note: 1. This Notification is superseded by Central Tax (Rate) NN. 21/2021, dated 31-12-2021 / Integrated Tax Notification No. 21/2021, dt 31-12-2021 w.e.f. 1st January 2022 and increased GST rate on Footwear of sale value not exceeding Rs 1000 per pair is continued.)

3. [Central Tax \(Rate\) NN.15/2021, dated 18-11-2021 / Integrated Tax Notification No.15/2021, dt 18-11-2021 w.e.f. 1<sup>st</sup> Jan 2022](#)

Subject: Amendment to CRNN. 11/2017/ IRNN. 8/2017

- Composite supply of works contract to Govt. Entity or Govt. Authority is enhanced to 18% from 12%.
- Job Work by way of Dyeing and Printing of Textile and Textile Products is enhanced to 12% from 5%.

(Note: Above Notifications superseded by Central Tax (Rate) NN.22/2021, dated 31-12-2021 / Integrated Tax Notification No. 22/2021, dt 31-12-2021 w.e.f. 1st January 2022 and increased GST rate on Composite supply of works contracts to Government Entity or Governmental Authority is continued.)

4. [Central Tax \(Rate\) NN.16/2021, dated 18-11-2021 / Integrated Tax Notification No.16/2021, dt 18-11-2021 w.e.f. 1<sup>st</sup> Jan 2022](#)

Subject: Amendment to CRNN. 12/2017/ IRNN. 9/2017

- Pure services and composite supply of goods and services where goods constitute not more than 25 percent value provided to a Govt. Entity or Govt. Authority is removed from exemption list of services thereby taxable at applicable rates.
- Exemption of tax for Non-AC contract Carriage or State Carriage or metered Cabs or Auto/e-rickshaws, if supplied through e-commerce operators is removed.

5. [Central Tax \(Rate\) NN.17/2021, dated 18-11-2021 / Integrated Tax Notification No.17/2021, dt 18-11-2021 w.e.f 1<sup>st</sup> Jan 2022](#)

Subject: Amendment to CRNN. 17/2017/ IRNN. 14/2017

Tax shall be paid by e-commerce operator under section 9(5) of CGST Act for supply of –

- Services by way of transportation of passengers by motorcycle, omnibus or any other motor vehicle.
  - Thereby services of such vehicles through Uber, Ola, Rapido etc., are liable to tax.
- Restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
  - Online food delivery apps like Swiggy, Zomato etc., now liable to pay GST on restaurant services.

6. [Central Tax NN.37/2021, dated 01-12-2021](#)

Subject: Amendment (Ninth Amendment, 2021) to CGST Rules

- Original tenure of the National Anti-Profitteering Authority was for two years which came to end in November 2019. Its tenure was extended by the GST Council by two more years. With this notification the tenure of NAA is further extended by one year (up to November 30, 2022).
- “Intimation of tax through GST DRC-01A” has been inserted in the dropdown of Form DRC-03 for payment of tax communicated through DRC-01A.

7. [Central Tax NN.38/2021, dated 21-12-2021](#)

- Aadhaar authentication rules which are amended through CGST (Eighth Amendment) Rules, 2021 are brought into force w.e.f. 01.01.2022. For details, please see page 5 of [GST Digest Issue 7](#)

8. [Central Tax NN.39/2021, dated 21-12-2021](#)

- Provisions of section 108, 109 and 113 to 122 of the Finance Act, 2021 are brought into force w.e.f. 01.01.2022. For details, please see [Gist of Finance Act2021](#)

#### [9. Central Tax NN.40/2021, dated 29-12-2021](#)

Subject: Amendment (Tenth Amendment, 2021) to the CGST Rules, 2017.

Important changes w.e.f. 01-01-2022 are:

- Rule 36(4) substituted to provide that ITC shall not be available to the registered person unless such invoice or debit note has been reflected in GSTR 2B of said person.
- Sub-rule (1A) and Sub-rule (3A) are inserted in Rule 80 extending the due date for filing GSTR-9 and GSTR-9C for the FY 2020-21 to 28<sup>th</sup> Feb 2022.
- Rule 142 amended wherein payment to be made within 7 days (earlier 14 days) of issue of notice under section 129(3) to conclude further proceedings where goods are seized in transit.
- Rule 144A is inserted mentioning the steps to be followed for recovery of penalty by the sale (auction) of goods/conveyance detained or seized in transit.
- Rule 154 is substituted prescribing the sequence of the dues to be apportioned from the sale proceeds of goods, conveyance or property. The penalty payable under section 129(3) is given preference after the administrative cost of the recovery process is appropriated.
- Rule 159 has been amended stating that a copy of the order of attachment in FORM GST DRC-22 shall also be sent to the person whose property is being attached under Sec 83 and that objection may be filed in FORM GST DRC-22A.

#### [10. Central Tax \(Rate\) NN.18/2021, dated 28-12-2021 / Integrated Tax \(Rate\) NN.18/2021, dated 28-12-2021](#)

Subject: Amendment to CR NN 1/2017/ IR NN 1/2017 dated 28-06-2017

- The World Customs Organization reviews the Harmonized Commodity Description and Coding System for every five years. The seventh edition of the HS, called HS 2022, entered into force on Jan. 1, 2022.
- Accordingly, certain HSN codes in GST rate schedules are modified by way of amendments to the notifications. HSN codes are important while issuing invoices, e-waybills and filing GST returns.

#### [11. Central Tax \(Rate\) NN.19/2021, dated 28-12-2021 / Integrated Tax \(Rate\) NN.19/2021, dated 28-12-2021](#)

Subject: Amendment to CR NN2/2017/ IR NN 2/2017 dated 28-06-2017

- These amendments were made in line with changes made in HSN codes.

#### [12. Central Tax \(Rate\) NN.20/2021, dated 28-12-2021/ Integrated Tax \(Rate\) NN.20/2021, dt 28-12-2021](#)



Subject: Amendment to CR NN21/2018/IR NN 22/2018 dated 26-07-2018

- The CR NN 21/2018 (Handicrafts etc.,) provided concessional rate of tax @12% to certain goods. Amendments were made w.e.f. 01-01-2022 to continue the concessional rate of tax to those goods whose HSN got changed because of HS-2022 (7419 80 and 4414).

13. [Central Tax \(Rate\) NN.21/2021, dated 31-12-2021/ Integrated Tax \(Rate\) NN.21/2021, dt 31-12-2021](#)

Subject: Supersession of CR NN14/2021/ IR NN 14/2021 dated 18-11-2021 and amendment to CR NN1/2017 / IR NN 1/2017 dated 28-06-2017

- Textile products and Footwear were made taxable at 12% vide CR NN 14/2021 in order to address the issue of Inverted duty structure.
- As the CR NN 14/2021 is superseded, the changes made to Textile related products are reverted back.
- “Footwear of sale value not exceeding Rs.1000 per pair” is made part of Schedule IV making it taxable at 12% w.e.f. 01-01-2022.

14. [Central Tax \(Rate\) NN.22/2021, dated 31-12-2021/ Integrated Tax \(Rate\) NN.21/2021, dt 31-12-2021](#)

Subject: Supersession of CR NN15/2021 / IR NN 15/2021 dt 18-11-2021 and amendment to CR NN11/2017 / IR NN 11/2017 dt 28-06-2017

- The concessional rate of tax which was earlier available to taxpayers for certain supplies, mentioned in S.No 3 of CR NN 11/2017 (amended), made to a Governmental Authority or a Government Entity was withdrawn vide CR NN 15/2022. The withdrawal of the said concessions remain same with the NN 22/2021.
- Rate of tax on certain services by way of dyeing or printing of the textile products were enhanced vide CR NN 15/2022. As the said notification is superseded, the enhanced GST rate is withdrawn for those services.

**Circulars:**

1. [Circular No163/19/2021 dated 06-10-2021](#)

Subject: Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 45th meeting held on 17th September, 2021 at Lucknow.

- i. Applicability of GST on fresh & dried fruits and nuts:

- Fresh fruits and nuts (almond, walnut, pista etc.,) falling under HSN 0801 & 0802 exempt from GST
  - Dried nuts under these headings attract 5%/12% GST
  - HS chapter 08 differentiates fresh, frozen, dried fruits and nuts
  - Fresh fruit and nuts cover fruit and nuts which are meant to be supplied in the state as plucked. They continue to be fresh even if chilled.
  - However fruit and nuts do not qualify as fresh, once frozen or dried.
  - Therefore, exemption from GST to fresh fruits and nuts covers only such products which are not frozen or dried.
- ii. Applicability of GST on tamarind seeds:
- Tamarind seeds, even if used for any purpose other than sowing, is liable to be classified under HSN 1209 and hitherto attracted to Nil GST Rate irrespective of its use (from 1.07.2017 to 30.09.2021)
  - Tamarind and other seeds falling under HSN 1209, meant for any use other than sowing attracts 5% GST with effect from 1.10.2021 in view of Notification vide CTNN 09/2021 dt: 30.09.2021.
- iii. Clarification of definition of Copra:
- Copra attracts 5% GST vide S No. 66 of Schedule I to CRNN 01/2017, irrespective of its use.
- iv. Applicability of GST on pure henna powder and leaves:
- It is clarified that pure henna powder and henna leaves, having no additives, is classifiable under HSN 1404 90 90 and shall attract 5% GST (S No. 78 of Sch.I of CRNN 01/2017)
  - GST Rate on mehndi paste in cones falling under HSN 1404 & 3305 is 5% (S No. 78A of Sch.I of CRNN 01/2017).
- v. Applicability of GST on scented sweet supari & flavored and coated illaichi:
- Scented sweet supari falls under HSN 2106 90 30 as “Betel nut product” known as supari attracts 18% GST (S No. 23 of Sch.III of CRNN 01/2017).
  - Flavoured and coated illaichi is a value added product falls under HSN 2106 (distinct from illaichi or cardamom) which attract 18% GST (S No. 23 of Sch.III of CRNN 01/2017).
- vi. Applicability of GST on Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues:
- Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues are classifiable under



HSN 2303 attracts, 5% GST (S No. 104 of Sch.I of CRNN 01/2017).

- vii. Scope of GST rate on all pharmaceutical goods falling under heading 3006:
- S No. 65 of Sch. II to CRNN 01/2017 refers to the Note 4 to chapter 30 while mentioning an illustrative list (sterile surgical catgut, similar sterile suture materials etc., other than contraceptives falling under HSN 3006) attracting GST @ 12%.
  - There are requests to clarify on the applicable rate of goods falling under HSN 3006 that are not specifically mentioned at S No. 65.
  - It is clarified that the said entry 65
    - i. specifies all goods as specified in Chapter Note 4 and
    - ii. Chapter Note 4 in turn covers all goods falling under HSN 3006.
  - Therefore, irrespective of the fact that such goods are specifically mentioned in the said entry or not they are liable to 12% GST.
- viii. All laboratory reagents and other goods falling under heading 3822:
- Serial no. 80 of Schedule II of CRNN 1/2017 prescribes 12% GST for “all diagnostic kits and reagents” falling under HSN 3822.
  - There are requests seeking clarification whether 12% would be available to laboratory agents and other goods falling under HSN 3822.
  - HSN 3822 covers “diagnostics or laboratory reagents, certified reference materials, etc.”
  - It is clarified on the recommendation of the 45th GST Council Meeting that 12% GST applicable on all goods falling under HSN 3822 under the above entry.
- ix. Requirement of Original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods, imported at concessional GST rate for petroleum operations:
- CRNN 3/2017 prescribes concessional rate of 5% for specified goods for using specified petroleum operations.
  - Condition 1(d) in the above notification prescribes that - whenever goods so supply are transferred to other licensee or sub-contractor a certificate from DGH is to be produced that the goods may be transferred to the transferee.
  - Inter-State stock transfers between distinct persons are considered as supply of goods.
  - There are requests seeking clarification whether the original Essentiality Certificate (EC) can be used for such inter-state stock

transfers or a fresh EC would be required for each inter-state stock transfer.

- It is clarified on the recommendation of GST Council that the original EC issued by DGH is sufficient and there is no need for taking certificate every time on inter-state movement of goods within the same company so long as the goods are the same.
- x. GST rates applicable on External batteries sold along with UPS Systems/ Inverter:
- There are requests to clarify whether 'UPS Systems/inverter sold along with batteries as integral part' are classifiable under HSN 8507 at 28% or under HSN 8504 at 18%.
  - It is clarified that this constitutes supply of two distinctly identifiable items on one invoice. UPS/ Inverter would attract 18% under HSN 8504 and external batteries would attract 28% under HSN 8507 (Other than Lithium-Ion Battery).
- xi. Applicability of GST rates on Solar PV Power Projects:
- An explanation was inserted at Sl.No.238 in Sch.I of CRNN 1/2017 that GST on specified Renewable Energy Projects can be paid in 70:30 ratio for goods and services, respectively, w.e.f. 1.1.2019. There are requests to clarify that same ratio (for deemed value) can be applied in respect of supplies made before 1.1.2019.
  - As per this explanation, the value of supply of goods for the purposes of renewable energy projects is deemed to be 70% of the gross consideration and the remaining 30% deemed to be value of supply of service.
  - **It is clarified that GST on such specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, for the period of 01-07-2017 to 31-12-2018 also.**
  - However, it is specified that, no refunds will be granted if GST already paid is more than the amount determined using this mechanism.
- xii. Applicability of GST rates on Fibre Drums, whether corrugated or non-corrugated:
- Hitherto, corrugated boxes and cartons, falling under HSN 4819 attract 12%, while other cartons falling under HSN attract 18%.
  - Disputes have arisen as regards applicable GST on fibre drums, which is partially corrugated (as to whether it is be treated as corrugated or otherwise).
  - This dispute gets resolved as uniform GST rate of 18% on all goods under HSN 4819 is specified (w.e.f. 1st October, 2021 vide CRNN 8/2021, dated 30.09.2021)

- For the period prior to 1.10.2021, the Council has decided that supplies of such Fibre Drums even if made at 12% GST (during the period from 1.7.2017 to 30.9.2021), would be treated as fully GST-paid. Therefore, no action for recovery of differential tax (over and above 12% already paid) would arise.
- However, as this decision has only been taken to regularize the past practice in view of certain ambiguity, no refund of GST already paid @ 18% shall be allowed.

2. [Circular No164/20/2021 dated 06-10-2021](#)

Subject: Clarifications regarding applicable GST rates & exemptions on certain services.

1. Services by cloud kitchens/central kitchens
  - Service provided by way of cooking and supply of food, by cloud kitchens/central kitchens are covered under “restaurant service”, as defined in CRNN 11/2017 and attract 5% GST [without ITC].
2. Supply of ice cream by ice cream parlors
  - Where ice cream parlors sell already manufactured ice-cream and do not cook/prepare ice-cream for consumption like a restaurant, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service and attract 18% GST.
3. Coaching services to students provided by coaching institutions and NGOs under the central sector scheme of “Scholarships for students with Disabilities”
  - Services provided by any institutions/ NGOs under the central scheme of “Scholarships for students with Disabilities” where total expenditure is borne by the Government is covered under the above entry 72 and hence exempt from GST.
4. Satellites launch services provided by NSIL.
  - It has been clarified vide Circular No. 2/1/2017-IGST that Place of Supply (PoS) of satellite launch services supplied by ANTRIX Corporation Ltd to customers located outside India is “outside India” and such supply subject to sec 2(6) of IGST Act, constitutes export of service and shall be zero rated. If the service recipient is located in India, the satellite launch services would be taxable.
  - As recommended by the Council, it is clarified that the satellite launch services supplied by NSIL (New Space India Limited) are similar to those supplied by ANTRIX Corporation Ltd, and the above said circular is applicable to them.
5. Overloading charges at toll plaza
  - Toll charges are exempt vide Sl. No. 23 of CRNN 12/2017.
  - Overloading fees are effectively higher toll charges, therefore overloading charges at toll plazas is exempt from GST.

6. Renting of vehicles by State Transport Undertakings and Local Authorities
  - Entry 5(f) of Schedule II of CGST Act declares supply of any goods without transfer of title as supply of service even if right to use is transferred.
  - As recommended by the GST Council, it is clarified that the expression “giving on hire” in Sl. No. 22 of CRNN. 12/2017 includes renting of vehicles. Accordingly, services where the said vehicles are rented or given on hire to State Transport Undertakings or Local Authorities are eligible for the said exemption.
7. Services by way of grant of mineral exploration and mining rights
  - There are requests to clarify as to the rate of GST applicable on supply of services by way of granting mineral exploration and mining rights from 1.07.2017 to 31.12.2018.
  - With effect from 1.1.2019, the rate schedule has been specifically amended and it is undisputed since then that such service attracts GST at the rate of 18 %.(Vide CRNN 27/2018 dt.31.12.2018 w.e.f. 1.1.2019)
  - It is clarified that
    - even if the rate schedule did not specifically mention the service by way of grant of mining rights, during the period 1.7.2017 to 31.12.2018, **it was taxable at 18% in view of principle laid down in the 14th meeting of the Council for residuary GST rate.**
8. Admission to amusement parks having rides etc.
  - Entry 34(iii) of CRNN 11/2017, prior to 01.10.2021, prescribed 18% GST on the services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.
  - On the other hand, Entry No. 34(iiiia) prescribed GST rate of 28% on the services by way of admission to entertainment events or access to amusement facilities including casinos, race club, any sporting event such as Indian Premier League and the like.
  - It is clarified that 28% rate [entry 34 (iiiia)] applies on admission to a place having casino or race club [even if it provides certain other activities] or admission to a sporting event like IPL.
    - On the other hand, Entry 34 (iii), having a rate of 18%, covers all other cases of admission to amusement parks, etc or any place having joy rides, merry- go rounds, go- carting etc, whether indoor or outdoor, so long as no access is provided to a casino or race club.
    - This clarification will also apply to Entries 34(iii) and 34(iiiia) as they existed prior to their amendment w.e.f. 01.10.2021.
  - The entries in question have been suitably amended vide CRNN. 6/2021 dated 30.09.2021 to make them clearer.

9. Services supplied by contract manufacturer to brand owners or others for manufacture of alcoholic liquor for human consumption.
  - There are requests to clarify that the job work services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption attract GST @ 5% prescribed for job work services in relation to food and food products, in terms of Sl. No. 26 [Item 1(i)f] of notification No. 11/2017-Central Tax (R) dated 28-6-2017.
  - It is clarified that the expression “food and food products” in the said entry excludes alcoholic beverages for human consumption. As such, in common parlance also alcoholic liquor is not considered as food.
  - Accordingly, services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry and such job work would attract GST at the rate of 18%.

3. [Circular No165/21/2021 dated 17-11-2021](#)

Subject: Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020

- Entry at S. No. 4 of the Circular No. 156/12/2021-GST dated 21st June, 2021 is substituted and clarified that dynamic QR code is not required wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier, in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI.

4. [Circular No166/22/2021 dated 17-11-2021](#)

Subject: Clarification on some refund related issues

- The provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.
- Furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases.
- Any TDS/TCS deposited, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues can be refunded to the

registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act.

Relevant date for the refund of tax paid on supplies regarded as deemed export by recipient would be the date of filing of return, related to such supplies, by the supplier.

5. [Circular No. 167/23/2021 – GST dated 17-12-2021](#)

Subject: GST on services supplied by restaurants through e-commerce operators (45th GST Council Meeting; Section 9(5) of CGST Act 2017; Notification No. 17/2021 dated 18.11.2021)

- W.e.f. 01.01.2022, the ECO shall be liable to pay GST on restaurant services provided through them (including by an unregistered person) in cash without using ITC. Invoice will be issued by ECO for such supplies.
- On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS in the existing manner.
- Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, i.e., as exempt supply for the time being.

6. [Circular No. 168/24/2021 – GST dated 30-12-2021](#)

This Circular clarifies the mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for the period prior to the merger with U.T. of Dadra & Nagar Haveli.

1. AATO: Aggregate Annual Turn Over
2. IFF: Invoice Furnishing Facility
3. CTNN: Central Tax Notification Number
4. CRNN: Central Tax Rate Notification Number
5. IRNN: Integrated Tax Rate Notification Number
6. RP: Registered Person

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**GST BITS**

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

ACT	CGST	IGST			Cess			SGST	IGST Settlement*	Total	Compensation	Growth over last year month
		Imports	Domestic	Total	Imports	Domestic	Total					
All India	23861	32998	34363	67361	699	7785	8484	30421		130127		24%
Collections from Telangana	928		1142	1142		506	506	1278		3854		14%
Contribution of Telangana (%)	4%		3%			6%		4%		3%		
<b>GST accrued to Telangana</b>								<b>1278</b>	<b>1194</b>	<b>2472</b>	<b>2414</b>	<b>12%</b>

Link to access All India GST collections is:

[https://gstcouncil.gov.in/sites/default/files/gst-statistics/PiB\\_Revenue\\_Collections\\_October2021.pdf](https://gstcouncil.gov.in/sites/default/files/gst-statistics/PiB_Revenue_Collections_October2021.pdf)

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

ACT	CGST	IGST			Cess			SGST	IGST Settlement*	Total	Compensation	Growth over last year month
		Imports	Domestic	Total	Imports	Domestic	Total					
All India	23978	32165	34650	66815	653	8953	9606	31127	1281	131526		25%
Collections from Telangana	952		1119	1119		550	550	1310		3931		24%
Contribution of Telangana (%)	4%		3%			6%		4%		3%		
<b>GST accrued to Telangana</b>								<b>1310</b>	<b>1281</b>	<b>2591</b>	<b>279</b>	<b>23%</b>

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

Link to access All India GST collections is:

[https://gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-November\\_2021.pdf](https://gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-November_2021.pdf)

## RULINGS BY AUTHORITY FOR ADVANCE RULING

S. No	Details	Gist of the Ruling
1	<p>Applicant: M/s Telangana State Technology Services Limited</p> <p><u><a href="#">Ruling No. &amp; Date:</a></u> <u><a href="#">TSAAR/12/2021 dt 04-10-2021</a></u></p> <p>Facts: ITE &amp; C is floating online tenders through the applicant and the applicant is collecting the transaction fees as an agent and retaining the margin amount of 5% as service charges and 95% of the amount so collected is passed onto the principal.</p> <p>Q. The applicant is desirous of ascertaining whether this transaction forms part of taxable supply and whether they are exempt under CR NN.12/2017 dt: 28.06.2017 at Serial No.6.</p>	<p>The above said service provided by the applicant to the Government is a <b>supply</b> and the services provided by the applicant to the Government are <b>not exempt</b> under this Notification as the above said Serial No.6 pertains to services provided <b>by</b> the Government and not services provided <b>to</b> the Government.</p>
2	<p>Applicant: M/s Continental Engineering Corporation, Telangana</p> <p><u><a href="#">Ruling No. &amp; Date:</a></u> <u><a href="#">TSAAR/13/2021 dt 08-10-2021</a></u></p> <p>Q. Whether GST is applicable on the proposed receipt of money in case of Arbitration claims awarded for works contract completed in the Pre-GST regime? If yes, then under what HSN Code and GST rate, the liability is to be discharged by the applicant?</p>	<p><u>1. Unpaid amounts including escalation of price for works executed in pre-GST period:</u> As the supply was made prior to introduction of GST, the amounts claimed pertaining to the works executed prior to introduction of GST are not taxable under GST.</p> <p><u>2. Refund of excess deductions made:</u> In light of Sec 13(2) of the Act, the time of supply is not in GST period, hence these amounts are not liable to tax under GST.</p> <p><u>3. Interest on delayed payments of interim payment certificates:</u> As the interest is claimed on delayed payments on the works executed and payment certificates received in pre-GST period, in light of Sec 13(2) of the Act, the time of supply is not in GST period; hence</p>

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		<p>these amounts are not taxable tax under GST.</p> <p><u>4. Cost of Arbitration:</u> In the present case, Arbitration as service was supplied independently after the introduction of GST i.e., the tribunal was constituted on 20.11.2017 and rendered its orders on 09.05.2019 and therefore this supply is liable to tax on reverse charge basis under GST @ 18%. The service tariff code is 998215.</p> <p><u>5. Liquidated damages:</u> These damages are consideration for tolerating an act or a situation arising out of the contractual obligation. It was determined only by arbitration award on 09.05.2019. Therefore the time of supply of this service U/S.13 of the Act is 09.05.2019. The Consideration received for such forbearance is taxable under GST @18% under the chapter head 9997 at serial no. 35 of CT NN.11/2017.</p> <p><u>6. Interest on Arbitration Amount:</u> Under Section 15(2)(d) of the Act, interest for delayed payment against a supply forms part of value of supply, hence taxable.</p>
3	<p>Applicant: M/s Versatile Resource Solutions, Telangana</p> <p><u><a href="#">Ruling No. &amp; Date:</a></u> <u><a href="#">TSAAR/14/2021 dt 08-10-2021</a></u></p> <p>The applicant sought advance ruling on whether or not applicant is liable to pay tax on the amount of wages/salaries, EPF/ESI etc., reimbursed by the client, M/s. Asian institute of Gastroenterology, Somajuguda, on supply of house-keeping services by the applicant?</p>	<p>The applicant is not a pure agent under GST Law. Further the deductions available under Section 15 of the CGST Act do not include the amounts pertaining to EPF, ESI, Salary, or Wages. Therefore entire amount received from the Hospital is exigible to GST.</p>

S. No	Details	Gist of the Ruling
4	<p>Applicant: M/s Honer Developer Private Limited, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/15/2021 dt 08-10-2021</a></p> <p>The applicant sought advance ruling on the following: Applicability of concessional rate under rate notification 01/2018 dt.25.01.2018 on amount received from the customers claiming the benefit of PMAY scheme?</p>	<p>In view of the above notification, if a person is acquiring a dwelling under the credit linked subsidy scheme for economically weaker section fulfilling the conditions from designated banks/financial institutions under such scheme, then the supplier/developer is eligible for the concessional rate of tax under the said notification.</p>
5	<p>Applicant: M/s Bharti Airtel Limited, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/20/2021 dt 01-11-2021</a></p> <p>The applicant sought advance ruling on the following:</p> <p>Whether telecom services provided by Airtel to Greater Hyderabad Municipal Corporation (GHMC) are Nil rated under GST as per S. No. 3 of CR NN 12/2017 dt. 28.06.2017 by considering the service as a pure service as they are in relation to functions entrusted under article 243W?</p>	<ul style="list-style-type: none"> <li>• By his own admission in the application, the applicant is providing data and voice services to GHMC and to the employees of the municipalities for general purpose for office and administrative purposes.</li> <li>• Thus, there is no direct relation between the services provided by the applicant and the functions discharged by the GHMC under Article 243W read with schedule 12 to the Constitution of India.</li> <li>• Therefore these services do not qualify for exemption under NN 12/2017 and so invoices shall be issued with GST.</li> </ul>
6	<p>Applicant: M/s. Gogineni Mohan Krishna, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/26/2021 dt 22-11-2021</a></p> <p>Q. Whether 5% GST on supply of pulp wood in terms of Chapter 4401 is correct?</p>	<p>No, incorrect. The Correct HSN is 4403 and tax rate is 18% since the applicant is supplying logs for pulping which is clearly covered under the said HSN at Sl.No.134 of Schedule-III rate notification 01/2017 i.e. poles, props and logs for pulping.</p>

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7	<p>Applicant: M/s Acharya Shree Mahashraman Chaturmas Vyavastha Samiti, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/27/2021 dt 23-11-2021</a></p> <p>1. Whether Applicant is liable to pay tax on renting of temporary residential rooms for consideration to the devotees where the predominant object is not to do business but for advancement of religion?</p> <p>2. Whether Applicant is liable to pay tax on renting of temporary residential rooms to the devotees where charges per room are less than one thousand per day?</p> <p>3. Whether Applicant is liable to pay tax on renting of space for stalls, where predominant object is not to do business but for advancement of religion?</p>	<p>1&amp;2. Consideration towards renting of rooms is liable to tax only if the room rent per day is Rs.1,000/- or more in view of Entry 13 of rate Notification 12/2017.</p> <p>3. Consideration towards renting of space for stalls is liable to tax only if the rent per month is Rs. 10,000/- or more.</p>
8	<p>Applicant: M/s TIME Education Kolkata Private Limited, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/28/2021 dt 06-12-2021</a></p> <p>1. Whether the services of supply of advertisement space along with artwork, by the applicant can be termed as the supply of space for advertisement in print media?</p> <p>2. If yes, GST @5% can be charged on the invoices raised to the customers?</p>	<ul style="list-style-type: none"> <li>• Where only <b>space</b> for advertisement in print media is supplied (SAC 998362), the rate of tax is 5%</li> <li>• Where they are supplying <b>ornate space</b> (along with artwork), it shall be treated as supply of <b>other advertisement services</b> falling under serial no. 21(ii) of Rate Notification 11/2017 and accordingly will attract GST @18%.</li> </ul>

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9	<p>Applicant: M/s Vijayneha Polymers Private Limited, Telangana</p> <p><u><a href="#">Ruling No. &amp; Date:</a></u> <u><a href="#">TSAAR/29/2021 dt 09-12-2021</a></u></p> <p>The advance ruling is sought on availability of ITC on GST charged by the contractor for supplying service of work contract.</p>	<ul style="list-style-type: none"> <li>• ITC cannot be availed on inward supplies of works contract services for construction of an immovable property except for erection of plant &amp; machinery.</li> <li>• Plant &amp; machinery will not include building or other civil structures and pipelines laid outside factory premises.</li> <li>• ITC cannot be availed on inward supply goods or services or both by a tax payer on his own account for construction of immovable property.</li> <li>• Applicant is eligible for ITC to the extent of machine foundation only</li> </ul>
10	<p>Applicant: M/s AIE Fiber Resource and Trading (India) Private Limited, Telangana</p> <p><u><a href="#">Ruling No. &amp; Date:</a></u> <u><a href="#">TSAAR/30/2021 dt 24-12-2021</a></u></p> <p>Q1. Whether supply of imported goods on High Sea sale basis or supply of goods from FTWZ (Free Trade Warehousing Zone) facilities by the Applicant to the Indian customers would be subject to IGST?</p> <p>Q2. In case the answer to question -1 is in the negative viz there is no liability to tax under IGST, then in that case whether corresponding input tax credit already taken will have to be reversed or not?</p> <p>Q3. Whether the issue of the invoices from the Applicant's only office located at Hyderabad, Telangana for sale of goods from the Mumbai and Chennai FTWZ facilities of the third-party logistic service provider namely DHL would qualify for purpose of</p>	<ol style="list-style-type: none"> <li>1. No, as such transactions do not attract tax by virtue of Entry 8 of Schedule III of GST Act.</li> <li>2. No need to reverse ITC in terms of explanation to section 17(3) of GST Act.</li> <li>3. Under Section 10(1)(a) of the IGST Act, the place of supply in such case shall be the location of goods where the movement of goods terminates for the delivery to the recipient. As the supplier of the goods and the place of supply of goods are in two different states, it is an inter-state supply.</li> <li>4. The applicant need not obtain any registration in the Other State in order to affect such inter-state transactions</li> </ol>



S. No	Details	Gist of the Ruling
	<p>discharge of its obligation in terms of Sec 31 of the CGST Act, 2017 as the Applicant does not have any other business/fixed establishment in the States where such FTWZ facilities are located?</p> <p>Q4. Whether the Applicant ought to obtain registration in the States of Maharashtra and Tamil Nadu (location of the FTWZ facilities) for sale of such goods from the FTWZ facilities of logistic service provider DHL?</p>	
11	<p>Applicant: M/s Golkonda Hotels and Resorts Limited, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/32/2021 dt 29-12-2021</a></p> <p>Q1. Whether the accommodation services provided by the applicant to GHMC officials during 2018 General Elections are exempt under Sl.No.3 of Notification No.12/2017</p>	<ul style="list-style-type: none"> <li>No. As there is no direct relation between the services provided by the applicant and the functions discharged by the GHMC under Article 243W read with schedule 12 to the Constitution of India. Hence, these services do not qualify for exemption.</li> </ul>
12	<p>Applicant: M/s International Inspection Services Private Limited, Telangana</p> <p><a href="#">Ruling No. &amp; Date:</a> <a href="#">TSAAR/33/2021 dt 29-12-2021</a></p> <p>Q1. Whether inspection services rendered for foreign companies (which do not have any business place/agency in India) in India is considered as an export or not?</p> <p>Q2. Whether inspection services provided in respect of goods that are being exported are also considered as Export of services?</p>	<ol style="list-style-type: none"> <li>No. As the location of recipient is outside India and Place of supply of services provided by the applicant are within the Country and hence liable to SGST &amp; CGST and will not be treated as export in terms of Section 13(3) of IGST Act.</li> <li>No. The said transaction will not be treated as <b>export</b> as stated above.</li> </ol>

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## **GST BITS**

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

ACT	CGST	IGST			Cess			SGST	IGST Settlement*	Total	Compensation	Growth over last year month
		Imports	Domestic	Total	Imports	Domestic	Total					
All India	22578	37527	31628	69155	614	8775	9389	28658		129780		24%
Collections from Telangana	936		1020	1020		552	552	1252		3760		6%
Contribution of Telangana (%)	4%		3%			6%		4%		3%		
<b>GST accrued to Telangana</b>								<b>1252</b>	<b>1139</b>	<b>2391</b>	<b>-</b>	<b>10%</b>

Link to access All India GST collections is:

[https://gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-December\\_2021.pdf](https://gstcouncil.gov.in/sites/default/files/gst-statistics/GST-Revenue-collection-December_2021.pdf)

### **GST collections for the month of January 2022(Rs in Crores)**

ACT	CGST	IGST			Cess			SGST	IGST Settlement*	Total	Compensation	Growth over last year month
		Imports	Domestic	Total	Imports	Domestic	Total					
All India	24674	35181	36849	72030	517	9157	9674	32016		138394		25%
Collections from Telangana	1056			1375			605	1424		4460		20%
Contribution of Telangana (%)	4%			2%				4%		3%		
<b>GST accrued to Telangana</b>								<b>1424</b>	<b>1254</b>	<b>2678</b>	<b>298</b>	<b>10%</b>

Link to access All India GST collections is:

[https://gstcouncil.gov.in/sites/default/files/gst-statistics/GST\\_Revenue\\_collection\\_january2022.pdf](https://gstcouncil.gov.in/sites/default/files/gst-statistics/GST_Revenue_collection_january2022.pdf)

**RECENT CASE LAWS ON GST**

S.No	Details	Gist of the Judgement
1	<p><b><u>Jyothi Construction Vs Deputy Commissioner of CT &amp; GST, Jaipur</u></b></p> <p>Hon'ble High Court of Orissa</p> <p>(W.P.(C) Nos. 23508, 23511, 23513, 23514 and 23521 of 2021, Dt. 07.10.2021)</p> <p>Issue: Payment of pre-deposited 10% of disputed amount of tax from ECRL before Appellate Authority – Rejected appeal.</p>	<p>The Hon'ble High Court dismissed the writ petition filed by the assessee and held that</p> <ul style="list-style-type: none"> <li>• The payment of mandatory 10% of disputed tax was required to be made by the assessee by debiting its Electronic Cash Ledger as provided under section 49(3) read with rule 85(4).</li> <li>• The proviso to section 41(2) limits the usage to which the Electronic Credit Ledger could be utilised. It cannot be debited for making payment of pre deposit at the time of filing of appeal in terms of section 107(6).</li> </ul>
2	<p><b><u>Vijay Steel con private Limited Vs Commissioner of central tax, Delhi(East)</u></b></p> <p>Hon'ble high court of Delhi (W.P(C): 13034/2021, Dt:18-11-2021).</p> <p><b>Issue:</b> Voluntary deposit of Tax, interest and penalty on search and seizure - availment of the benefit of restriction of penalty to only 15% of such tax- need not serve any notice under sec 74(5) - cannot challenge the said proceedings before court.</p>	<ul style="list-style-type: none"> <li>• The contention that the amount deposited by the petitioner with the respondent was not voluntarily but due to coercion is not merit acceptance because of the detailed letters of the petitioner to respondents disclose that deposited amount is voluntarily and petitioner himself sought department not to issue any notice in this regard</li> <li>• As per sec 74(5), a person chargeable with tax before service of notice, under section 74(1), if paid the amount of tax along with interest and penalty equivalent to 15% of such tax on the basis of his own ascertainment or ascertained by the proper officer, on receipt of such payment, the proper officer shall not serve any notice to the tax payer as per sec 74(6). In the present case, the petitioner availed this remedy and challenged the said proceedings is after thought. Hence the same is dismissed with costs of Rs.25000/- to the petitioner.</li> </ul>
		<p><b><u>Facts of the case:</u></b></p> <ul style="list-style-type: none"> <li>• The petitioner is an SEZ unit and effected</li> </ul>

S.No	Details	Gist of the Judgement
3	<p><a href="#"><u>Platinum Holdings Private Limited Vs Additional Commissioner of GST &amp; Central Excise (Appeals-II)</u></a></p> <p>Hon'ble high court of Madras (W.P.No: 13284, 13286, 13287, 13289, 13291 &amp; 13292 of 2020, Dt: 11.08.2021.)</p> <p><b>Issue:</b> Claim of refund of taxes paid by the SEZ itself on the purchases/services made from several suppliers for the development of the SEZ - Appellate Authority – Rejected appeal.</p>	<p>certain inward supplies and paid taxes to their suppliers on such supplies even though such supplies are zero rated. The petitioner filed applications for refund of the taxes erroneously paid.</p> <ul style="list-style-type: none"> <li>The claim of refund application was rejected by the proper officer as the petitioner was not entitled to the refund on the ground that only a supplier of services would be entitled to claim refund and not the SEZ itself.</li> </ul> <p><b>Gist of the Judgment:</b></p> <ul style="list-style-type: none"> <li>The Hon'ble High Court observed that Section 54 of CGST Act read with Rule 89 of CGST Rules permits any entity to seek a refund of taxes or other amounts paid under provisions of the Act.</li> <li>Therefore, it was held that the application filed for refund of taxes paid under Act would be maintainable if it would be established that no such claim has been made by supplier, and tax has been remitted to treasury.</li> </ul>
4	<p><a href="#"><u>M/s Shri Tyres, Chennai Vs State Tax Officer, Chromepet Assessment Circle</u></a></p> <p>Hon'ble high court of Madras (W.P.No: 19756/2021, Dt: 21.09.2021.)</p> <p><b>Issue:</b> Requirement of issue of FORM GST DRC-01 and FORM GST DRC-01A is not a mere procedural.</p>	<p><b>Gist of the Judgment:</b></p> <ul style="list-style-type: none"> <li>The impugned order was not preceded by Forms GST DRC-01 and GST DRC-01A.</li> <li>The Hon'ble High Court has observed that the requirements of issue of FORM GST DRC-01 and FORM GST DRC-01A have been statutorily ingrained.</li> <li>Further the High Court held that a careful perusal of Section 73 of the CGST Act in conjunction with Rule 142 makes it clear that non adherence to Rule 142 had caused prejudice to the writ petitioner qua impugned order and therefore it is a rule which necessarily needs to be adhered to, if prejudice is to be eliminated in the case on hand. In other words, it is not a mere procedural requirement but, on the facts and circumstances of this case, it becomes clear that it tantamount to trampling the rights of writ petitioner.</li> </ul>

S.No	Details	Gist of the Judgement
5	<p><a href="#"><u>Appario Retail Private Limited Vs Union of India</u></a></p> <p>Hon'ble high court of Telangana</p> <p>(W.P.No:12183/2021,Dt: 28.09.2021.)</p> <p><b>Issue:</b> Unutilized balance in the cash ledger on account of deposits u/s 52 i.e., 'Collection of tax at Source' is refundable in terms of Section 49(6).</p>	<ul style="list-style-type: none"> <li>The petitioner is eligible to claim refund of balance in electronic cash ledger, which is covered by the proviso to sub-section (1) of Section 54 and would not fall under sub-section (1) of Section 54.</li> <li>The Hon'ble High Court held that excess cash balance available in electronic cash ledger on account of Tax Collection at Source (TCS) is eligible for refund under S.49(6) and under proviso to sub-section (1) of S. 54 of the CGST Act. This view is also supported by a decision rendered by the <a href="#"><u>Kerala High Court in M/s. Royale Edible Company V/s. Union of India and others</u></a> (2020-VIL-549 Kerala).</li> </ul>
6	<p><a href="#"><u>Ambika Creation Vs Commissioner (ST), Gujarat</u></a></p> <p>Hon'ble High court of Gujarat (SCA No: 17564/2021, Dt: 12/01/22)</p> <p><b>Issue:</b> Electronic credit Ledger can be blocked for a period of one year only unless a fresh order is passed.</p>	<ul style="list-style-type: none"> <li>The Hon'ble High Court held that the Rule 86A(3) itself has provided that the Electronic Credit Ledger can be blocked for a period of one year. On expiry of a period of one year, it would automatically get unblocked.</li> <li>In fact, it was the duty of the authority concerned to permit the assessee, i.e., the Petitioner, to avail the input credit available in his ledger, once the statutory period comes to an end. The authority has no further discretion in the matter, unless a fresh order is passed.</li> </ul>
7	<p><a href="#"><u>Karnataka Traders Vs State of Gujarat</u></a></p> <p>Hon'ble High court of Gujarat</p> <p>(SCA No: 19549/2021, Dt: 06.01.2022.)</p> <p><b>Issue:</b> Undervaluation or wrong route cannot be grounds for seizure of goods in transit.</p>	<ul style="list-style-type: none"> <li>Merely based on the direction preferred by the petitioners for delivery of consignment to the place destined for, an inference cannot be drawn with regard to the intention of the petitioners to evade tax.</li> <li><b>Change of route may assume importance provided there is cogent material with the department to indicate that an attempt was sought to be made to dispose of the goods indirectly at a particular place. If such is the case, then probably, the authority may be justified in initiating appropriate proceedings,</b> but mere change of route of the vehicle by itself is not sufficient.</li> </ul>

S.No	Details	Gist of the Judgement
8	<p><a href="#"><u>M/s Tvl hotel Aathi Vs The Assistant Commissioner (ST), Mayiladuthura</u></a></p> <p>Hon'ble high court of Madras (W.P.No:3474/2021, Dt: 08/12/2021)</p> <p><b>Issue:</b> ITC claimed by filing TRAN-1, but never utilized - levy of interest and penalty.</p>	<p><b>Facts of the case:</b></p> <p>The petitioner had filed TRAN-1 to claim transitional credit on capital goods, but reversed the said ITC by filing monthly return after show cause notice was issued. The petitioner was assessed under Section 74 by levying tax, penalty and interest with a reason that the said ITC was not admissible under TNVAT Act, 2006.</p> <p><b>Gist of the Judgment:</b></p> <p>The Hon'ble High Court set aside the levy of interest and penalty, and is only liable to a token of penalty and held that-</p> <ul style="list-style-type: none"> <li>• The credit of ITC was wrongly attempted to be transitioned; it was never utilized. Further before levying penalty or interest, a proper excise was required to be made by a proper officer under Section 74(10) after ascertaining whether the credit was wrongly availed and wrongly utilized.</li> <li>• The proceedings can be initiated for imposition of interest, penalty under Section 73 or under Section 74 of the Act, for wrong availment of Input Tax Credit, where such credit was not only availed but also utilized for discharging the tax liability.</li> </ul>
9	<p><a href="#"><u>Ranjana Singh Vs Commissioner Of State Tax</u></a></p> <p>Hon'ble high court of Allahabad</p> <p>(W.P. No:1084/2021, Dt: 09-12-2021)</p> <p><b>Issue:</b> Application for GST Registration was rejected for non-submission of recent electricity bill.</p>	<p>The Hon'ble High Court allowed the appeal and held that-</p> <ul style="list-style-type: none"> <li>• Once the petitioner has satisfied the requirement of the law by providing PAN, Aadhar and also house tax receipt/property receipt in terms of section 25 of the Act for registration, then the authority should not have insisted for submission of electricity bill.</li> <li>• All the documents as required under the Act and law as well as in compliance to the show cause notice were furnished by the petitioner and without pointing out any defect or short coming there in, the application should not</li> </ul>



S.No	Details	Gist of the Judgement
		<p>have been rejected.</p> <ul style="list-style-type: none"> <li>It was bounded duty of the authorities to look into the reply submitted by the petitioner and grounds of appeal and then pass the order in accordance with law instead of their own whims and fancies.</li> </ul>
10	<p><b><u>Adarsh Tobacco Co Vs State of U.P.</u></b></p> <p>Hon'ble high court of Allahabad (Writ Tax No. 20/2021, Dt:13-01-2021)</p> <p><u>Topic:</u> Filing of an appeal before first Appellate Authority beyond the period of limitation under section 107(1) &amp; (4) of the act - Rejected the appeal.</p>	<p><b><u>Facts of the case:</u></b></p> <p>The penalty order passed under Section 129 was served on the driver of the vehicle and not on the petitioner against whom that order was passed. Aggrieved, the petitioner filed an appeal before the appellate authority, who has dismissed the appeal as barred by limitation in terms of Section 107(4) of the act.</p> <p><b><u>Gist of the Judgment:</u></b></p> <p>The Hon'ble High Court set aside the order of the Appellate Authority and directed to condone delay and proceed to decide the appeal by relying on the judgement of Hon'ble High Court of Allahabad in the case of <b><u>M/s Patel Hardware Vs Commissioner, State GST in Writ Tax No.1388 of 2018, Dated. 10-12-2018</u></b>, where in it was held that-</p> <ul style="list-style-type: none"> <li>the delay in filing the appeal may not be condoned beyond the period of one month from the expiry of period of limitation, the phrase "communicated to such person" appearing in Section 107(1) of the Act commend a construction that would imply that the order be necessarily brought to the knowledge of the person who is likely to be aggrieved.</li> <li>The impugned penalty order was served on the driver of the truck while the penalty order is directed against the owner of the goods.</li> </ul>

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## Gist of TVATAT Orders

- 1) [M/s. Bhavani Industries, Alugunoor - T.A.No.206/2014 & 207/2014, Dt. 28-11-2020.](#)

Period: 2009-10 & 2010-11

Act: VAT

**ISSUE:** Levy of purchase tax on corresponding purchase value of paddy to the sale of husk is sustainable u/S. 4(4) of the APVAT Act, 2005?

**FINDINGS:** The Hon'ble Tribunal upheld the levy of purchase tax u/S. 4(4) of the APVAT Act, 2005 on the corresponding purchase value of the paddy to the sale of husk, which is obtained as by-product while milling paddy, by relying on the judgment of the Hon'ble High Court in [K.G.F. Cottons \(P\) Limited, Bhainsa, Adilabad District & Others Vs. The Assistant Commissioner \(CT\)LTU, Adilabad and others \(2015\) 60 APSTJ 135](#), and it is in accordance with the proceedings of the Authority for Clarification and Advance Ruling in the case of [M/s. Maruthi Industries, Tadipatri, Anantapur District in A.R.Com/100/2011, dt.30.10.2012.](#)

- 2) [M/s. Vijaya Iron Foundry Private Limited, Hyderabad - T.A.No.734/2010, Dt. 29-11-2020.](#)

Period: 2005-06 & 2006-07,

Act: VAT

**ISSUE:** Whether the disallowance of Input Tax Credit on the purchases of cement, M.S. Rods used in the construction of shed under Rule 20(2)(i) of APVAT Rules was in accordance with law.?

**FINDINGS:** The construction of factory shed falls within the scope of construction of buildings including factory or office buildings which was clearly specified in the ineligible list for claiming input tax credit under Rule 20(2)(i) and the authorities rightly relied upon the rulings of the Advance Ruling Committee in the case of M/s. Sri Vigneshwara Steel Industries, Visakhapatnam in CCT's Ref. No. A.R.Com /186/2006, dt.2.3.2007.

- 3) [M/s. Sri Jagadamba pearls dealer, secunderabad - T.A.No.130/2009, Dt. 02-05-2017.](#)

Period: April, 2005 to May, 2006

Act: VAT

**ISSUE:** Levy of Tax @4% on gold coated jewellery, which is made by using precious stones and different alloys, under Entry 96 of Schedule IV is in accordance with the VAT Act 2005?

**FINDINGS:** The Hon'ble Tribunal upheld the Departmental Authorities' view i.e. gold coating is always done on different alloys but not on silver ornaments and liable to pay tax @4%.

4) [M/s Sri Satya Durga Bottle Merchants, Hyderabad - T.A.No. 208/2010, Dt. 10-02-2017](#)

Period: April, 2005 to July, 2008

Act: VAT

**ISSUE:** The assessing authority disallowed the input tax credit claimed by the appellant basing on the cross verification report submitted by the concerned authorities that the selling dealers not reported their sales turnovers to the department and the firms are found fictitious.

**FINDINGS:** The Hon'ble Tribunal held that the department has proved that the appellant has indulged in clandestine business activities and has claimed false Input Tax Credit by raising bogus tax invoices from fictitious dealers or dealers who were trading not in empty bottles by relying the judgment of Hon'ble High Court of AP in the case of [M/s. Vijaya Venkata Durga Oil Traders, Vijayawada Vs. The Commercial Tax Officer, Sivalayam Street Circle, Vijayawada and Another \(59 APSTJ 191\)](#). Also held that the argument that the goods moved on the basis of a way bill issued by the department or that the payments were made through a bank cannot come to his rescue in view of the **judgment of Hon'ble High Court in the case of [M/s. Tungabhadra Industries Limited Vs State of Andhra Pradesh \(62 STC 71\)](#) and in the case of [M/s. Rajendra Oil Mills Refinery Vs State of Andhra Pradesh \(IBID page 72\)](#).**

5) [M/s. Southern Online Bio Technologies Ltd., Saifabad, Hyderabad. T.A.No.59/2010,Dated:03-10-2018.](#)

Period: April 2005 to July, 2008

Act: VAT

**ISSUE:** Whether the appellant is eligible to claim ITC which was accumulated arising out of the purchases made from 10/2005 to 4/2007 to a tune of Rs.25,62,672/- in respect of the manufacturing business

and the same was claimed in the return for the month of 5/2007 as lumpsum?

**FINDINGS:** The Hon'ble Tribunal held that, the appellant is not entitled to claim the accumulated ITC arising from the purchases made for the months of 10/2005 to 01/2007 to tune of Rs.25,62,672/- in VAT 200 for the month of 5/2007 in terms of the provisions of section 13, 20 read with rule 23 and Form VAT 200 and by relying on the judgment of Karnataka high court in the case of [State of Karnataka vs. Centum Industries Private Limited \(77 VST 117\)](#).

6) [M/s. Mylan Laboratories Limited, Hyderabad - T.A.Nos.346/2012 & 347/2012, Dt. 07-12-2019.](#)

Period: 2008-09 and 2009-10

Act: VAT

**ISSUE:** The assessing authority levied penalty u/s 53(1) r/w Rule 25(8) of APVAT ACT-2005, on the claim of excess ITC, where, there was no output tax payable by the dealer even after disallowing ineligible ITC since even after adjusting the output tax liability, the appellant was still eligible for claim of refund.

**FINDINGS:** The Hon'ble Tribunal held that, the assessing authority gets jurisdiction to levy penalty u/s 53(1) read with rule 25 (8)(a) and the appellant is liable to penalty u/s 53(1) as much as there was under declaration of tax (i.e., excess claim of ITC) and where it has such an under declaration is not due to any fraud or willful neglect.

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## **RECENT DEVELOPMENTS IN GST PORTAL**

### **1. GST Interest calculation**

- A new functionality has been added to GSTR-3B for auto-calculation interest on delayed payment of GST. Now the system populates interest pertaining to **previous GSTR-3B return**.
- On downward editing of the values, system will throw a warning and the relevant cell becomes Red in color but will not stop the taxpayer from filing GSTR-3B.
- Advisory on new functionality of interest calculator in GSTR-3B can be accessed at the below link.

[Advisory on GST Interest Calculation](#)

### **2. Online Form GST DRC-20**

- When recovery is initiated for a demand, Taxpayer can request for extension of time or grant of installments using the form DRC-20 through portal.
  - The Commissioner may issue an order in FORM GST DRC- 21, allowing the taxable person further time to make payment or to pay the amount in monthly installments, not exceeding twenty-four. This facility can be availed for the demands not less than Rs 25,000.
- 3.** Whenever the details of a taxpayer are accessed on GST portal, the system will show the status of GSTIN as Active or suspended or cancelled. Now the effective date of Suspension/cancellation is also displayed.
- 4.** At the time of filing GSTR1, the system used to check the GST registration status of the recipient and display an error message if a supplier entered GSTIN of a suspended taxpayer. This validation has now been removed and the TPs can enter a suspended GSTIN as a recipient in Form GSTR-1/IFF.

### **5. GSTIN suspension**

- Showcause notice for cancellation of GST registration can be issued either in form REG-17 or REG-31. Any sort of such notice will result in suspension of the GSTIN.
- When a notice is issued for cancellation of registration, the taxpayer can file his reply @ Login:Services -> Registration -> Application for Filing Clarifications. ARN or Reference number of the showcause notice to be used to file the clarification.

- The tax officer on seeing the reply may drop the notice. When the notice is dropped, the status of GSTIN is updated as Active.
  - e-waybill cannot be generated as long as the GSTIN is in **suspended** status.
  - Bank account details can be updated by taxpayers using amendment of non-core files in their GST registration.
- 6.** In case a taxpayer has applied for cancellation of their GST registration and later decides to keep the registration active, he can withdraw the cancellation application using FORM REG-16. The taxpayers **cannot use this facility** after any action has been initiated by the tax officer against their application.
- 7.** The application for revocation of cancellation of registration has to be filed within 30 days of the cancellation of GSTIN. If a taxpayer files such an application with delay, it will be forwarded to higher authorities for condonation of delay. When the delay is condoned by the Higher Officer, the application can be processed by the registration authority.

#### **8. Aadhaar authentication**

- Aadhaar authentication has been made mandatory for a taxpayer in the following situations:
    - a) Application for revocation of cancellation of registration.
    - b) Application for refund of GST
  - In case if Aadhar number is not available, the taxpayer may undergo e-KYC verification.
  - The process may be completed by navigating to "Dashboard > My Profile > Aadhaar Authentication Status".
- 9.** The CBIC has released a copy of the CGST Act and Rules Part-A & Part-B as updated till January 01, 2022. The same can be accessed through the following links.
- a) [CGST Act updated](#)
  - b) [CGST Rules Part-A updated](#)
  - c) [CGST Rules Part-B updated](#)
- 10.** Now the GST portal suggests the registration applicant the jurisdiction office based on the PIN code of Principal place of Business.



## 11. GSTR1 Revamped

- An enhanced version of GSTR-1/IFF is made available on GST portal to improve the taxpayer experience. The new layout of the return is more user-friendly.
- GST portal will not allow a taxpayer to file GSTR-1 if GSTR-3B is not filed for previous month. Also, GSTR-3B cannot be filed if GSTR-1 is not filed.

12. The GSTN has issued module wise new functionalities deployed on the GST Portal for taxpayers. They can be accessed at the below links.

- [Functionalities deployed in January 2022](#)
- [Functionalities deployed in during October - December 2021](#)
- [Functionalities deployed in during July - September 2021](#)
- [Functionalities deployed in during April - June 2021](#)
- [Functionalities deployed in during January - March 2021](#)
- [Functionalities deployed in during October - December 2020](#)
- [Compilation of GSTN YouTube videos posted from January - December 2020](#)

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**[Please provide your feedback here](#)**



HARITHA HAARAM

