



GST DIGEST

(QUARTERLY E-MAGAZINE)



HARITHA HAARAM



ISSUE 2

Period: Jul, 2020 to Sep, 2020



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Inauguration of GST Digest by Hon'ble Chief Secretary & Special Chief Secretary (Revenue) Telangana , Sri Somesh Kumar, IAS



Hon'ble Chief Secretary & Special Chief Secretary (Revenue) Telangana, Sri Somesh Kumar, IAS , Commissioner of Commercial Taxes, Smt Neetu Prasad, IAS, Special Commissioner(ST), Sri M.S. Reddy IRS, Addl Commissioner(ST) Grade I ,Sri J. Laxmi Narayana, Addl Commissioner(ST), Smt K.Harita, Joint Commissioner(ST), Sri N. Sai Kishore dated 31-07-2020

MESSAGE FROM THE EDITORIAL COMMITTEE

The release of the 1st edition of e- Magazine, **GST-DIGEST**, by our esteemed Chief Patron Sir, Chief Secretary & Special Chief Secretary (Revenue), **Sri Somesh Kumar, IAS** was a splendid moment for the Telangana Commercial Taxes Department. Sir has provided treasured advice and was pleased for taking up this initiative. We express our heartfelt gratitude to Sir for sparing his valuable time for the release of e-Magazine.

The inauguration was done in the presence of our respected patron and Commissioner Madam, Smt. Neetu Prasad, IAS and senior officers of the Department; All the officers, above cadre of Deputy Commissioner (ST), participated through virtual conference held on 31st July, 2020. We would also like to thank our Commissioner Madam for the encouragement, timely guidance and immeasurable support.

We take this opportunity to express our profound gratitude to our respected Chief Secretary & Special Chief Secretary (Revenue) Sir, Sri Somesh Kumar, IAS for restructuring and expanding the Department which serves the dual purpose of increasing the revenues of the State and fulfilling the aspirations of the employees.

After the release of the 1st edition of e-magazine, there was overwhelming response from the Officials of the department and other stake holders. We are acknowledging and thanking them for their invaluable suggestions and feedback.

As you are aware, our state under the stellar leadership of Sri. Somesh Kumar, IAS Sir and Smt. Neetu Prasad, IAS Madam has achieved decent Tax collections and achieved lowest revenue gap in the country. But for the continuous persuasion and active participation of our State, the Central Government would not have agreed to release states share of Rs.1.76 lakh crore IGST, transferred to the consolidated fund of India; Out of which Telangana state is expected to receive an amount of Rs. 2,638 crores.

At this juncture, in order to further enhance the tax collection, it is inherent for the Officers to equip themselves with the latest developments pertaining to GST. Hence, we are coming up with the 2nd edition of our magazine **GST- DIGEST**, which is meticulously prepared to ensure that the content is precise. The digest is user friendly with hyperlinks to the documents.

We 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

Tax/Rate Notifications

S.No.	Reference & Subject	Brief Description
01	<p>Central Tax Notification No.58/2020, Dated 01-07-2020,</p> <p>Subject: Amendment of Rules – Insertion of Rule 67A -Filing NIL GSTR3Band GSTR1 by SMS.</p>	<ol style="list-style-type: none"> Rule 67A is inserted prescribing the manner of furnishing of return or details of outward supplies by short messaging service (SMS) facility. Electronic furnishing under section 39 or Section 37 includes filing of NILGSTR 3B return or NIL details of outward supplies in GSTR1 through Short Messaging Service(SMS) using Registered Mobile Number verified by OTP. Nil return or Nil outward supplies for a tax period shall mean no entry in all the tables in form GSTR 3B or GSTR1.
02	<p>Central Tax Notification No.59/2020, Dated 13-07-2020</p> <p>(Amendment to CT NN. 21/2019)</p> <p>Subject: Extension of the due date</p>	<p>The due date of filing GSTR-4 is further extended to 31st August 2020.</p> <p>Background:</p> <ul style="list-style-type: none"> Composition taxpayers need to file GSTR-4 for every financial year or part thereof by 30th April 2020. (CT NN 21/2019). The due date for filing of GSTR-4 for the FY 2019-20 is extended to 15th July 2020 from 30th April 2020 (CT NN 34/2020). In the present notification, due date for filing GSTR-4 for FY 2019-20 is further extended. <p><i>Note: (Please see Sl.No.7 of this table)</i></p>
03	<p>Central Tax Notification No.60/2020, dated 30-07-2020</p> <p>Subject: Form GST INV-1(e invoice)</p>	<ol style="list-style-type: none"> By amending rules, Form GST INV-1 was substituted under Rule 48. Prescribes format/schema for e-invoice. Accommodates the invoicing system or policies followed by each industry or sector in India. Certain information is made mandatory whereas the rest of them is optional for businesses. The gist of the contents of e-invoice format: <ul style="list-style-type: none"> 12 Sections and 6 annexures consisting of a total of 138 fields Out of the 12 Sections – 5 are Mandatory and 7 are Optional. The 5 Mandatory sections are Basic Details,

S.No.	Reference & Subject	Brief Description
		<p>Supplier and Recipient Information, Invoice Item Details, Document Total.</p> <ul style="list-style-type: none"> The two mandatory annexures are details of the items and document total.
04	<p>Central Tax Notification No.61/2020, dated, 30-07-2020</p> <p>(Amendment to NN. 13/2020)</p> <p>Subject: Amended class of registered persons for e-invoice</p>	<p>1. Inserted the words “a SEZ unit and” in first paragraph before the words “those referred to in sub-rules” in NN. 13/2020.</p> <p>2. Substituted “one hundred crore rupees” with “five hundred crore rupees” in NN. 13/2020.</p> <p>Background:</p> <ol style="list-style-type: none"> Sub-rule 4 of Rule 48 is inserted vide NN.68/2019 - making it mandatory for notified class of RPs to issue e-invoice after obtaining Invoice Reference Number (IRN) by uploading data on Common Goods and Service Tax Electronic Portal. Vide NN. 69/2019, notified 10 websites as Common Goods and Services Tax Electronic Portal for the purpose of IRN. Vide NN. 70/2019, RPs, whose aggregate turnover in year exceeds Rs.100 crores, for B2B transactions, are notified as class of RPs under Rule 48(4). NN. 13/2020, superseded NN.70/2019, and notified class of RPs under Rule 48(4) - whose aggregate turnover exceeds Rs.100 crores, for B2B transactions, excluding RPs under rule 54(2), 54(3), 54(4), 54(4A) (i.e., bankers, insurers, GTAs, passenger transporters and film exhibitors). Effective from 01-10-2020. In the present notification, the limit of aggregate turnover is enhanced to Rs.500 crores from Rs.100 crores and in exclusion list, SEZ unit is also added. <p><i>Note: (Please see Sl.No.13 – NN.70/2020)</i></p>
05	<p>Central Tax Notification No.62/2020, dated 20-08-2020</p>	<ol style="list-style-type: none"> Amendment to Sub-Rule (4A) of Rule 8, Proviso to Rule 9(1), Proviso to Rule 9(2), Sub-Rule (4) of Rule 9, Sub-Rule (5) of Rule 9 and Rule 25 (Registration Rules) Sub-Rule (4A) of Rule 8 was substituted as <ol style="list-style-type: none"> If the applicant for registration opts for Aadhaar authentication, he shall undergo the authentication of Aadhaar number In such cases, the date of submission of

S.No.	Reference & Subject	Brief Description
	Subject: Amendment of Rules –Aadhaar Authentication for registration	<p>the application is the date of authentication or 15 days from the submission of Part-B of GST REG-01, whichever is earlier.</p> <ol style="list-style-type: none"> 3. Proviso to Rule 9(1) was substituted as <ol style="list-style-type: none"> a. If the applicant for registration fails to undergo Aadhaar authentication or does not opt for Aadhaar authentication, the registration shall be granted only after physical verification of the business premises as per Rule 25. b. Proper officer may carry out verification, in lieu of physical verification, for the reasons to be recorded, with the approval of Joint Commissioner or above. 4. Proviso to Rule 9(2) was inserted as <ol style="list-style-type: none"> a. If the applicant for registration fails to undergo Aadhaar authentication, a notice may be issued in Form GST REG-03 with in 21 days from submission of application. 5. In sub-rule (4) of rule 9, for the word “shall”, the word “may” is substituted - thereby providing discretion to the proper officer whether to approve or reject the application for registration in case no reply is received for his notice in form GST REG – 03. 6. Sub-rule (5) of Rule 9 is substituted – regarding deemed approval of application for registration in case proper officer fails to take any action in <ol style="list-style-type: none"> a. Three working days from date of submission in case of application with Aadhaar authentication b. Period as specified in proviso to sub-rule (2) of Rule 9 (i.e., 21 days), in case applicant fail to undergo Aadhaar authentication c. Twenty one days in case applicant does not opt for Aadhaar authentication. d. Seven working days from the date of receipt of clarification etc., furnished by the applicant (i.e., form GST REG-04) 7. In Rule 25 (Physical verification of business premises in certain cases), inserted the

S.No.	Reference & Subject	Brief Description
		words “or due to not opting for Aadhaar authentication” after the words “failure of Aadhaar authentication”.
06	Central Tax Notification No.63/2020, dated 25-08-2020 Subject: Effective date notification – Levy of Interest on cash portion	1. Section 100 of Finance (No.2) Act, 2019 shall come in to force w.e.f. 1 st September, 2020. Background: a. Section 50 (Interest on delayed payment of tax) was amended by Finance (No.2) Act, 2019 by inserting a proviso b. Thereby levying interest on cash portion of delayed tax. (Note: CBIC has issued a press release dated 26-08-2020 stating that NN.63/2020 has been issued prospectively due to certain limitations and assured that no recoveries shall be made by the central and state authorities regarding past period in accordance with decision taken in 39 th GST Council meeting)
07	Central Tax Notification No.64/2020, dated 31-08-2020 Subject: Amendment to NN. 21/2019	1. In NN. 21/2019, in the 3 rd paragraph, in the 1 st proviso for the expression “31 st day of August 2020” the expression “31 st October 2020” is substituted. Background: a. Vide NN. 21/2019, Dt 23-04-2019, it is notified that RPs under composition levy shall furnish annual return in form GSTR-4 on or before the 30 th day of the following year. b. Vide NN. 34/2020 , it is notified by inserting a proviso in the above notification that the due date for filing GSTR-4 for the FY 2019-20 is extended to 15 th July, 2020 c. It is further extended to 31 st August 2020 from 15 th July 2020 by amending NN. 21/2019 by NN. 59/2020 dated, 13 th July, 2020. d. In the present notification, it is further extended to 31 st October, 2020.
08	Central Tax Notification No.65/2020, dated 01-09-2020	In the NN. 35/2020, in 1 st paragraph, in clause (i), the following proviso is inserted: “Provided that where, any time limit for completion or compliance of any action, by any

S.No.	Reference & Subject	Brief Description
	<p>(Amendment to NN. 35/2020)</p> <p>Subject: Extension of time limits</p>	<p>authority, has been specified in, or prescribed or notified under section 171 of the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of November, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 30th day of November, 2020.”</p> <p>(Note: Section 171 deals with Anti profiteering measures)</p>
09	<p>Central Tax Notification No.66/2020, dated 21-09-2020</p> <p>(Amendment to NN. 35/2020)</p> <p>Subject: Extension of time limits for issuance of tax invoice in certain cases</p>	<p>In the NN. 35/2020, in 1st paragraph, in clause (i), after the first proviso, the following proviso is inserted:</p> <p>“Provided further that where, any time limit for completion or compliance of any action, by any person, has been specified in, or prescribed or notified under sub-section (7) of section 31 of the said Act in respect of goods being sent or taken out of India on approval for sale or return, which falls during the period from the 20th day of March, 2020 to the 30th day of October, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall stand extended upto the 31st day of October, 2020.”.</p> <p>(Note: Section 31(7) prescribes when to issue tax invoice in case of removal of goods on approval for sale or return basis.)</p>
10	<p>Central Tax Notification 67/2020, dated 21-09-2020</p> <p>(Amendment to NN. 73/2017)</p> <p>Subject: Conditional waiver of late fee on delayed filing of GSTR-4</p>	<p>Background:</p> <ul style="list-style-type: none"> • Sec 47 prescribes a late fee of Rs 200 (Rs 100+Rs 100) for every day of delay with a maximum cap of Rs 10000 (Rs 5000+Rs 5000) • Vide NN.73/2017, 29-12-2017, Late fee for delay in filing of GSTR-4 for every day is reduced to <ul style="list-style-type: none"> ○ Rs 50(Rs 25 + Rs 25) in case of other than NIL returns and ○ Rs 20 (Rs 10 + Rs 10) in case of NIL returns • In the present notification, late fee is further reduced for the quarters from July, 2017 to

S.No.	Reference & Subject	Brief Description
		<p>March, 2019 not filed by the due date but furnishes the said return between the period from 22nd day of September, 2020 to 31st day of October, 2020.”to</p> <ul style="list-style-type: none"> ○ Rs 500 (Rs 250 + Rs 250) in case of other than NIL returns ○ Rs Nil, in case NIL returns
11	<p>Central Tax Notification.68/2020, dated 21-09-2020</p> <p>Subject: Conditional waiver of late fee on delay in furnishing of GSTR-10.</p>	<ul style="list-style-type: none"> • Late fee, payable under section 47 of the Act on delay in furnishing form GSTR-10, i.e., final return, is reduced to Rs 500 (Rs 250 + Rs 250) (Late fee payable in excess is waived) if the said return is furnished between 22nd September 2020 and 31stDecemeber 2020. <p>Background: Section 47 of CGST/SGST Act prescribes a late fee of Rs 200 (Rs 100 + Rs 100) for delay in furnishing return with a maximum cap of Rs 10000 (Rs 5000 + Rs 5000)</p>
12	<p>Central Tax Notification No.69/2020, dated 30-09-2020</p> <p>Subject: Extension of due date of annual return for 2018-19</p>	<ul style="list-style-type: none"> • Due date for furnishing annual return for FY 2018-19 is further extended to 31st October 2020 from 30th September 2020.
13	<p>Central Tax Notification No.70/2020, dated 30-09-2020</p> <p>Subject: Amendment to NN.13/2020-Matters related to e-invoicing</p>	<ul style="list-style-type: none"> • Class of RPs under Rule 48(4), who are mandatorily to issue e-invoice, are those RPs, who’s aggregate turnover in any preceding FY from 2017-18 onwards exceeds Rs.500 crores. • e-invoicing is made compulsory by the above RPs not only for B2B transactions but also for transactions of exports. <p>(Note: <i>Please see Sl.No.4 of this table -NN.61/2020</i>)</p>
14	<p>Central Tax Notification No.71/2020, dated 30-09-2020</p>	<ul style="list-style-type: none"> • Class of RPs who shall issue B2C invoice with dynamic QRC is modified as those RPs whose -aggregate turnover in any preceding FY from 2017-18 onwards exceeds Rs.500 crores. • The effective date of coming into force of the notification is modified to 01-12-2020 from 01-10-2020.

S.No.	Reference & Subject	Brief Description
	<p>Subject: Amendment of NN.14/2020 – Matters related to QRC embedded with IRN on B2C invoice.</p>	<p>Background:</p> <ul style="list-style-type: none"> 6th proviso to Rule 46 (Tax invoice) empowers Government to issue notification to specify that the tax invoice shall have Quick Response Code (QRC) subject to such condition and restrictions as mentioned in the notification. Vide NN.14/2020 dated 21-03-2020 it is notified that an invoice issued by a RP, whose aggregate turnover in a FY exceeds Rs.500 crores, other than insurers, bankers, GTAs, film exhibitors, suppliers of passenger transport servicers and OIDAR service providers, shall have dynamic QRC for B2C transactions. In case the supplier provides dynamic QRC over digital media to the customer and the payment reference to such QRC is on the invoice then it is deemed that the invoice is embedded with dynamic QRC.
15	<p>Central Tax Notification No,72/2020, dated 30-09-2020</p> <p>Subject: Amendment to Rules – Matters related to QRC on invoice.</p>	<ul style="list-style-type: none"> Clause (r) is inserted in Rule 46 (tax invoice - particulars on tax invoice) - QRC having embedded IRN. Insertion of proviso to Rule 48(4) empowering commissioner exempting a person or a class of RPs by way of notification from issuance of invoice under this sub-rule (e-invoice) for a specified period subject to such conditions and restrictions. Substitution of sub-rule (2) of Rule 138(a) (Documents and devices to be carried by a person in-charge of a conveyance) – incase of e-invoice, QRC having embedded IRN may be produced electronically for verification in lieu of physical copy of tax invoice during inspection of goods in movement.
16	<p>Central Tax(Rate)NN.4/2020, dated 30-09-2020</p> <p>Subject: Amendment to Rate NN.12/2017 (List of exempted services)</p>	<ul style="list-style-type: none"> Amendment to Sl.19(A) & 19(B) of Rate NN 12/2017, dated 20-06-2017, as amended from time to time. Extension of exemption on services by way of transportation of goods by air or by sea from customs station of clearance in India to a place outside India, by one year i.e., upto 30-09-2021 (from 30-09-2020).

S.No.	Reference & Subject	Brief Description
		<ul style="list-style-type: none"> The notification shall come into force w.e.f 1st day of October 2020.
17	<p>Integrated Tax (Rate) NN.4/2020,dated 30.09.2020</p> <p>Subject: Amendment to IGST Rate NN.9/2017 (List of exempted services)</p>	<ul style="list-style-type: none"> Amendment to Sl.20(A) & 20(B) of Rate NN 9/2017, dated 28-06-2017, as amended from time to time. Extension of exemption on services by way of transportation of goods by air or by sea from customs station of clearance in India to a place outside India, by one year i.e., upto 30-09-2021 (from 30-09-2020). The notification shall come into force w.e.f 1st day of October 2020.
18	<p>Instruction3/2/2020-GST, dated 24-06-2020</p> <p>Subject: Payment of GST by real estate promoter/developer supplying construction of residential apartment, etc. on the shortfall value of inward supplies from registered supplier at the end of the financial year.</p>	<ul style="list-style-type: none"> GST rate has been revised with effect from 01-04-2019 on the supply of service by way of construction of residential apartment. GST rates without ITC @ 1% or 5% prescribed vide Rate NN.3/2019 dated 29.03.2019. One of the condition prescribed is that at least 80% of value of input and input services (other than electricity, HSD, Petrol, Natural gas, long term lease of land, grant of development rights) shall be received by the developer by the RPs only. In case of shortfall such developers shall pay tax on the value of input / input services comprising such shortfall as per the notification. This tax shall be paid by the end of the quarter following the FY. Accordingly, for the FY 2019-20, tax on such shortfall is to be paid by 30-06-2020. Form GST DRC-03 shall be used by promoter/developer for making such payment.

Note:

NN: Central Tax Notification Number

Rate NN: Central Tax (Rate) Notification Number

41st GST Council Recommendations

Rupa Sowmya Kanchi, DC(ST)

1. The 41st GST Council Meeting was convened to discuss on the single point agenda of Shortfall in Compensation Cess.
2. The present pandemic has led to fall in revenues of the States drastically, increasing the requirement for GST Compensation. On the other side, collections in Compensation Cess also fell considerably, further widening gap between the receipts and out-go of the Compensation fund.
3. The estimated Compensation requirement for the Country was quantified at around Rs.2,50,000 Crores for 10 months (April '20 to Jan '21) as against the estimated Compensation Cess collections of around Rs.68,000 Crores.
4. Telangana state took the Stand that Centre should borrow and should compensate to the States in full as it was Constitutional Obligation.
5. Centre has sought the opinion of the Attorney General, who has rendered his opinion that the States need to be compensated in full and it was for the GST Council to decide on the modalities through which this Compensation requirement can be met. It was also opined that the Act doesn't require the GoI to bear the liability of making good the shortfall and the consent of the GoI is required to enable the States to further raise the loans.
6. After elaborate discussions and requests made by the States asking the Centre to borrow from Market to make good the shortfall in compensation requirement, the Hon'ble Chairperson has placed two options before the States as circulated by the Department of Expenditure, Government of India.
7. Under both the options States were asked to borrow.
8. Borrowing under Option 1 was limited to shortfall arising on account of implementation of GST, i.e. assuming the present Pandemic was not there (Initially a notional growth rate of 10% was adopted but was later on modified to be 7%). It also involved slightly relaxing the FRBM limits. The proceeds from extension of levy of Cess were proposed to be used for re-payment of the Principal and interest. The proceeds of Cess levied beyond the transition period of 5 years would also be used for Compensating the remaining gap to the States on account of the pandemic.
9. Under Option 2 states can borrow the shortfall in full, the FRBM limits were restricted, the principal re-payment can be done from the proceeds of the extended levy of Cess and interest re-payment has to be borne by the State.
10. The States were requested to choose in between the Options within a week's time.

RULINGS BY AUTHORITY FOR ADVANCE RULING

1. Applicant: M/s. Navneeth Kumar Talla, Telangana

Ruling No. & Date: TSAAR Order No. 3/2020 dated: 29.06.2020

Q. Whether GST is chargeable on food supplied to Hospitals i.e. Government Hospital, Private Hospitals and Autonomous Bodies on outsourcing basis? If GST is chargeable what is the tax rate?

- Supplies by clinical services have NIL rate of tax as per [S.No 74\(a\) of CR NN 12/2017 dt 28-06-2017](#) which reads as “health care services by a clinical establishment, an authorized medical practitioner or para-medics”.
- **Exemption** is available as per the above notification only when the clinical establishment itself provides this service (**supply of food**) as **a part of health care services to the in-patients** and the same is **not available**, when such supply of food and beverages **is made by a person other than clinical establishment** based on a contractual arrangement with such establishment.
- GST chargeable on such supply is 18% for the period from 01.07.2017 to 26.07.2018 and it is 5% for the period from 27.07.2018 onwards according to S.No 7(ii) of CR NN 11/2017 dt 28-06-2017 amended vide CR NN 20/2019 dt 30-09-2019.

2. Applicant: M/s. Vishwanath Projects Limited, Telangana

Ruling No. & Date: TSAAR Order No. 2/2020 dated: 29.06.2020

Q. The applicant is providing services viz., supply, erection, testing & commissioning of 33/11kV Substations with Associated Lines to M/s Odisha Power Transmission Corporation Limited, Janapath, Bhubaneswar (referred to as “OPTCL). The applicant desires to get ruling as to whether OPTCL is a Government Entity and if so the rate of tax in respect of aforementioned services provided by them to OPTCL. As per the applicant’s interpretation, the power distribution and transmission companies are treated as Government Entity and the applicable GST rate is 12%.

- By way of **CR NN. 31/2017 dt 13-10-2017**, Government of India substituted the word “Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a *Government Entity*” in place of ‘Central Government, State Government, Union Territory, a local authority or a Governmental Authority’.
- Under the provisions of the Electricity Act, 2003, OPTCL is a deemed transmission licensee. Thus, M/s OPTCL falls under the domain of Government entity in terms of the provisions of **CT NN 11/2017dt. 28.06.2017** (as amended).

- The nature of the works stated by the applicant in Contract agreement with M/s OPTCL, are of industrial nature as those works are to be done to industrial feeders too.
- The contractee is not rendering any non-commercial services as the structure arising out of works contract services will be used by M/s OPTCL for the purpose of commerce.
- **Therefore, the benefit of concessional rate of 12% GST is not available to the applicant.**

3. Applicant: M/s. Daicel Chiral Technologies (India) Pvt Limited, Telangana

[Ruling No. & Date: TSAAR Order No. 1/2020 dated: 24.06.2020](#)

Q.The applicant is a subsidiary of Daicel Chemical Industries Ltd. Japan and they require a lab for providing Pharmaceutical Research & Development services. The applicant acquired land on lease from M/s. IKP Knowledge Park (lessor) for a period of 33 years and executed a lease deed. As per the terms of the lease, the applicant is required to pay one-time lease premium at the beginning of the lease and also annual lease rentals at the end of every year to the lessor for 33 years. In addition to the above the applicant is also required to pay maintenance charges for the leased premises. The Lessor has classified the lease services rendered by him under 'Rental or Leasing services involving own or leased non-residential property' having SAC as 997212. The lessor has collected GST@18% on one-time lease premium. The applicant sought clarity on eligibility of input tax credit on

i) GST paid on payment of "lease premium charges (one-time charges)" towards land lease for business purpose?

ii) GST paid on "annual lease rentals" (recurring) towards supply of land on lease for business purpose?

iii) GST paid on "maintenance charges" collected by the lessor?

- **The referred services are received by applicant for construction of immovable property (other than plant & machinery) on their own account.**
- **The exclusion clause 17(5)(d) shows that the exclusion is applicable including when such services are used in the course or furtherance of business which is the claim of the applicant.**
- **Thus, the referred services fall under the exclusion vide Sec. 17(5)(d) and hence ineligible to ITC.**

4. Applicant: Consulting Engineers Group Limited, Andhra Pradesh

[Ruling No. & Date: 17/AP/GST/2020 dated: 13.05.2020](#)

Q. Whether the 'Project Management Consultancy' services provided to Andhra Pradesh Panchayat Raj Engineering Department for AP Rural Road

Project (APRRP) for Road Construction can be termed as 'Pure Services' as referred in Sl. No. 3 – (Chapter 99) of Table mentioned in CR NN 12/2017 Dt 28-06-2017 and accordingly eligible for exemption from GST?

- The applicant provides Project Management Consultancy Services to AP PR & Engineering Dept for AP Rural Road Project which is meant for connectivity of all unconnected habitats of 250+ population in the state.
- To avail the benefit of tax exemption mentioned in the said notification, the below conditions have to be satisfied
 - a) The services rendered by the applicant are pure services- there should not be any incorporation of goods.
 - b) The recipient should be one of the below category ; Central Government, State Government, Governmental Authority or Local Authority
 - c) The functions carried out by the applicant are in relation to any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution.
- **Here the applicant is eligible for exemption under GST as all the above-mentioned conditions are satisfied for the supply.**

5. Applicant: Ushabala Chits Private Limited, Andhra Pradesh

[Ruling No. & Date: 13/AP/GST/2020 dated: 05.05.2020](#)

Q. Whether the interest/penalty collected for delay in payment of monthly subscription (Chit) by the members forms a supply under GST?

If the said interest/penalty is a supply, what is the classification and rate of tax applicable on the said supply?

- The additional amount charged by the applicant cannot be treated as interest because the Chit company has not extended any deposit, loans or advances to its customers.
- Hence the exemption granted under [S.No 27 of CT NN 12/2017](#) is not applicable for the said transaction.
- As per section 15(2)(d) of GST Act, the value of supply shall include "interest or late fee or penalty for delayed payment of any consideration for any supply".
- **They are classified under SAC 9971 and taxable at 12% GST according to S. No 15 of IT NN 8/2017.**

6. Applicant: Lakshmi Tulasi Quality Fuels, Andhra Pradesh

[Ruling No. & Date: 12/AP/GST/2020 dated: 05.05.2020](#)

Q. The applicant seeks advance ruling on whether she is eligible for the exemption from payment of GST on the monthly rentals received by her on

lease of her residential building in Telangana to D-Twelve Spaces Private Limited.

- The applicant has rented out her dwelling for commercial activity and supply of such services are classifiable as “Rental or leasing services involving own or leased non-residential property under SAC 997212, **liable to IGST @ 18%** according to [S.No 16 of IR NN 8/2017 dt 28-06-2017](#).

7. Applicant: Pulluri Mining & Logistics Private Limited, Andhra Pradesh.
[Ruling No. & Date: 11/AP/GST/2020 dated: 05.05.2020](#)

Q. The service recipient is providing Diesel to the equipment and vehicles used by the applicant for executing the mining contracts. The applicant seeks advance ruling on whether the HSD Oil issued free of cost by the service recipient to the applicant would form part of value of supply of service by the applicant.

- As per section 15(2)(b) of the CGST Act, the **value of supply includes any amount that the supplier is liable to pay in relation to such supply** though incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both.

8. Applicant: Andhra Pradesh State Road Transport Corp, Andhra Pradesh
[Ruling No. & Date: 09/AP/GST/2020 dated: 05.05.2020](#)

Q. Whether the services of APSRTC giving Non Air Conditioned buses on contract for the occasions of marriages, functions etc., for transportation of employees and students of other organizations/Department, for different purposes like, transportation of passengers to Sabarimala, transporting of public to the places where meetings conducted by political parties and to the places like Polavaram project, are covered under contract carriage as specified vide Serial No 15 of notification 12/2017 ?

- According to [S.No 15 of CR NN 12/2017 dt 28-06-2017](#), GST is exempted for supplies by way of transportation of passengers by non-air-conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire.
- So, the services mentioned by the applicant does not fall under the said exemption, but can be classified under [S.No 10 of CR NN 11/2017 dt 28-06-2017](#) i.e., Rental services of transport vehicles.

9. Applicant: Uttar Bihar Gramin Bank, Bihar

[Ruling No. & Date: Bihar AAR 04 2019-20 Dated 30.06.2020](#)

Q. The applicant is engaged in the business of banking as a Regional Rural Bank. It accepts deposit from its customers. It is statutorily required to pay premium to Deposit Insurance and Credit Guarantee Corporation (in short "DICGC) on these deposits, on which GST is collected by the DICGC. Now the bank is availing and intends to continue to avail credit of GST paid, as prescribed under respective GST Acts, as it is an inward supply for the purpose of its banking business. To avoid any future litigation, bank now seeks advance ruling, whether input credit of GST on this inward supply is just and proper under the GST law?

- The applicant is eligible to claim input tax credit of GST paid on premium to DICGC.
- They can avail the credit according to section 17(2) of GST Act.
- They also have an option under section 17(4) for apportionment of their credit.

10. Applicant: Springfields (India) Distilleries, Goa

[Ruling No. & Date: GOA/GAAR/1 of 2020-21/530 dated 29.06.2020](#)

Q.1. The applicant is seeking clarity on Hand Sanitizer asking that the same is covered under the HSN 30049087 – Antihypertensive drugs: Antibacterial formulations not elsewhere specified or included and rate of GST is 12%.

2. The Ministry of Consumer Affairs, Food and Public Distribution, in a notification CG-DL-E13032020-218645 has classified Hand Sanitizers under the Essential Commodities Act, 1955 as an essential commodity and thus exempt from GST.

- **Alcohol based hand sanitizers are to be classified under HSN 3808, to which rate of GST applicable is 18%.**
- Merely classifying any goods as essential commodity will not be the criteria for exempting such goods from GST. Exempted goods under GST are covered by CR NN 2/2017 dt 28-06-2017.

11. Applicant: High Tech Refrigeration & Air Conditioning Industries, Goa

[Ruling No. & Date: GOA/GAAR/5 of 2019-20/530 dated 29.06.2020](#)

Q. Air conditioner is fixed in Goa for a client (recipient) registered outside Goa. The recipient has no registration in Goa. Whether IGST or SGST & CGST is to be charged by the supplier registered in Goa, for the said transaction?

- As per section 10(1)(b) of CGST Act, where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.
- **Hence, the nature of supply made by the applicant in the said transaction is to be treated as the supply of goods in the course of inter-state trade or commerce and tax is to be charged accordingly.**

12. Applicant: Atriwal Amusement Park, Madhya Pradesh

[Ruling No. & Date: MP/AAR/12/2020 dated 09.06.2020](#)

Q.The applicant is engaged in construction of Water Park. They seek advance ruling on eligibility of input tax paid on

- a. purchase of Water Slides made up of Strong PVC.
- b. goods and services used in construction of support structure for installing Water Sliders
- c. Goods and services used for area development and preparation of land on which water slides are erected.
- d. Goods and Services used for construction of Swimming Pool/Wave Pool as water slides directly run into pools?

- a) Water Slides** shall fall within the meaning of the term apparatus, equipment and machinery and therefore, tax paid on them, shall be **eligible** for claim of ITC.
- b) The foundation and support structures** which are used to fasten plant and / or machinery to the Earth are classifiable as 'Plant and / or Machinery'. In case of the applicant, slides are fastened to the Steel and Civil Structure and are affixed to the Earth through these Steel and Civil Structures. Therefore, these structures shall form part of the Plant and Machinery and accordingly, **ITC is allowed** on purchase of those inputs.
- c) The area development and expenditure on preparation of land**, like site formation services are part of the cost of the land and thus are interminably bound with land, these expenses are liable to be capitalized under the head Land. Therefore, on account of the specific exclusion of Land from the meaning of 'plant and machinery', ITC related to area development and preparation of land, for placing water slides, subject to its capitalization as per accounting principles **shall not be available**.
- d) Swimming Pools / Wave Pools** are not support structures or foundation for a plant but are independent items per se and are **excluded from** the meaning of '**plant and machinery**'. Thus, the ITC

related to the construction of the Swimming Pools and Wave Pools, subject to its capitalization **shall not be available**.

13. Applicant: Jabalpur Hotels Private Limited, Madhya Pradesh

[Ruling No. & Date: MP/AAR/10/2020 dated 08.06.2020](#)

Q. Whether Input tax credit on purchase of Lift would be available to Hotel as it has been used in the course or for the furtherance of business?

- Hotel building being an immovable property, any input or input service going into its construction shall not be available for claim of input tax credit. **The lift becomes part of the building. A lift does not have an identity when removed from the Building. Therefore, the lift cannot be said to be separate from a Building. Also, it should be observed that lift is not an item that is purchased and sold. It is a customized mechanism for transportation, designed to suit a specific building. Upon piece by piece installation, it becomes an integral part of the building. Lift cannot be considered as plant and machinery or as a supporting structure for fastening of plant and machinery to earth. Hence the ITC on lift cannot be claimed as per sec 17(5)(d) of GST Act.**

14. Applicant: Rajesh Rama Varma, Tamil Nadu

[Ruling No. & Date: TN/20/AAR/2020 dated 24.04.2020](#)

Q. Whether the services provided by the applicant to the foreign client through the Principal shall be treated as export of services as the final services claimed by the Principal is in the nature of export of services?

- The applicant is providing IT related consultancy services to Doyen (principal) and not to their clients either directly or as an agent, in the area of Oracle ERP w.r.t Oracle Financials to Doyen for a consultancy fee laid down in the consultancy agreement. Therefore, the said activity satisfies the conditions of Section 7(1)(a) and is a supply under GST. As per Para 5 of Schedule II read with Section 7(1)(a), this supply is a supply of services. The supplies by the applicant (being an agent) have to be considered as intra-state and should levy tax accordingly.

15. Applicant: IZ-Kartex named after P G Korobkov Ltd, West Bengal

[Ruling No. & Date: 04/WBAAR/2020-21 dated 29.06.2020](#)

Q. A foreign company has contracted for a long-term Maintenance and Repair Contract (MARC) for the equipment it supplied to Bharat Coking Coal Ltd. Whether it amounts to import of service by BCCL?

- According to the contract, the MARC Holder maintains suitable structures in terms of human and technical resources at the sites of BCCL. It ensures supervision of the equipment, supply of spares and consumable and overheads for 5000 annual working hours for seventeen years, indicating sufficient degree of permanence to the human and technical resources employed at the sites. The MARC Holder, therefore, supplies the service at the sites from fixed establishments as defined under section 2 (7) of the IGST Act. The **location of the supplier should, therefore, be in India** in terms of section 2 (15) of the IGST Act.
- The supply of service cannot be considered as import of service within the meaning of section 2 (11) of the IGST Act. The MARC Holder should be treated as a supplier located in India and made liable to pay GST, the place of supply being determined in terms of section 12 (2) (a) of the IGST Act.

16. Applicant: Mansi Oils and Grains Pvt Ltd, West Bengal

[Ruling No. & Date: 02/WBAAR/2020-21 dated 29.06.2020](#)

Q. The applicant is a corporate debtor in terms of the Insolvency and Bankruptcy Code, 2016 and now under liquidation. The applicant would like to know whether sale of assets by the liquidator is 'supply' and, if so, whether the liquidator should get themselves registered under GST Act?

- The liquidator is appointed under section 34 (1) of IBC after NCLT initiates liquidation in terms of section 33 of IBC. As the applicant i.e., the corporate debtor, is not a going concern, the liquidator is required to sell its assets under clauses (a) to (d) of Regulation 32 of the Insolvency and Bankruptcy Board of India (liquidation process) Regulations. The sale of the applicant's assets, like the plant and machinery, office equipment & furniture is, therefore, a supply of goods by the liquidator and hence the **liquidator is required to take registration** under section 24 of the GST Act.

17. M/s Sayaji Industries Ltd, Gujarat

[Ruling No. & Date: GUJ/GAAR/R/29/2020 dated 02.07.2020](#)

Q. The applicant seeks whether exemption is allowed under GST on the Maize bran produced by them, by way of CR NN 2/2017 dt 28-06-2017

- The applicant claims exemption on Maize bran as per Sr.No.102 of CR NN 2/2017 as amended vide CR NN 7/2018 reads as under: Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including Maize Bran is used as a major supplement for cattle feed, but **maize bran itself is not cattle feed**. The product is covered under S.No.103A of CR NN 1/2017 dated 28.06.2017, on which rate of GST chargeable is 5%

RECENT CASE LAWS ON GST

1) Subhash Joshi & another Vs. Director General of GSTIntelligence (DGGI) &Ors. (High Court of MP/ WP No.9184/2020 / 03-07-2020)

Subject: Search & Seizure

Gist of the case:

- **No legal right exists to allow search and seizure operation in the presence of an advocate**
 - The Hon'ble Court held that:
"(9) Another submission of counsel for petitioner is that the search should be carried out in the presence of the Advocate, but counsel for petitioner has failed to point out any statutory provision or any such legal right in favor of the petitioner.....
[12]Having regard to the above position in law and the fact that no such legal right has been pointed out, the submission of the counsel for petitioner to carry out the search and seizure operation in the presence of the petitioner cannot be accepted..."

2) PR Mani Electronics VS UOI &others

(Madras High Court / WP 8890 of 2020 / 13-07-2020)

Subject: Transitional Credit – Time limit

Gist of the case:

- **Transitional ITC cannot be availed of except within the stipulated time limit.**
- The Hon'ble court held that
“...20...the object and purpose of Section 140 clearly warrants the necessity to be finite. ITC has been held to be a concession and not a vested right. In effect, it is a time limit relating to the availing of a concession or benefit. If construed as mandatory, the substantive rights of the assesseees would be impacted; equally, if construed as directory, it would adversely impact the Government's revenue interest, including the predictability thereof. On weighing all the relevant factors, which may be not be conclusive in isolation, in the balance, **we conclude that the time limit is mandatory and not directory...** ”

3) Jain international VS Commissioner of Delhi GST

(Delhi high court / WP (C) No. 4205/2020/ 22-07-2020)

Subject: Refund application – Issuance of Deficiency memo

Gist of the case:

- **The Hon'ble court set aside the issuance of deficiency memo to refund application by the officer after stipulated time.**
- Hon'ble court held that

"...

9. To allow the respondent to issue a deficiency memo today would amount to enabling the Respondent to process the refund application beyond the statutory timelines as provided under Rule 90 of the CGST Rules, referred above. This could then also be construed as rejection of the petitioner's initial application for refund as the petitioner would thereafter have to file a fresh refund application after rectifying the alleged deficiencies. This would not only delay the petitioner's right to seek refund, but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules. ...

11. Consequently, this Court is of the view that the respondent has lost the right to point out any deficiency, in the petitioner's refund application, at this belated stage. "

4) [VKC footsteps India pvt ltd Vs union of India](#)

(Gujrat High Court / R/SPECIAL CIVIL APPLICATION NO. 2792 of 2019/ 24-07-2020)

Subject: Refund - Inverted duty structure – Input services

Gist of the case:

- Hon'ble court held that:
 "...25. We are of the opinion that **Explanation (a) to [Rule 89\(5\)](#) which denies the refund of "unutilised input tax" paid on "input services" as part of "input tax credit" accumulated on account of inverted duty structure is ultra vires the provision of [Section 54\(3\)](#) of the CGST Act, 2017.**

26. In view of the above, Explanation (a) to the Rule 89(5) is read down to the extent that Explanation (a) which defines "Net Input Tax Credit" means "input tax credit" only....

Note: Please refer to case law at Sl.No 10 wherein Hon'ble Madras High Court upheld the validity of Rule 89(5).

5) [Material recycling association of India Vs Union of India](#)

(Gujarat High Court / R/SCA NO.13238 of 2018/ 24-07-2020)

Subject: Place of supply – Intermediary services

Facts of the case:

- The members of petitioner are intermediaries who provide intermediary service to foreign clients.
- The petitioner has challenged the constitutional validity of Section 13(8)(b) of the Integrated Goods Service Tax Act, 2017 and to hold the same as ultra vires under Articles 14, 19, 265 and 286 of the Constitution of India

Gist of the case:

- **Onjoint reading of [Section 2\(6\) and 2\(13\)](#), which defines export of service and intermediary service respectively, then the person who is intermediary cannot be considered as exporter of services because he is only a broker who arranges and facilitate the supply of goods or services or both.**
- Hon'ble High Court held that
"it cannot be said that the provision of [Section 13\(8\)\(b\) r.w. Section 2\(13\)](#) of the IGST Act, 2017 are ultra vires or unconstitutional in any manner."

6) [MS stell& Pipes vs Assistant state tax officer](#)

(Kerala high Court / W.P.(C).No.16356 OF 2020 / 12-08-2020)

Subject: Inspection of goods in movement – detention

Facts of the case:

- In the present case, the petitioner has issued tax invoice and waybill but not mentioned tax component separately in way bill, the respondent issued notice for detention.

Gist of the case:

- Hon'ble High Court held that **detention under [Section 129](#) is to be exercised only in cases where a transportation of goods is seen to be in contravention of the provisions of the Act and Rules and not simply because a document relevant for assessment does not contain details of tax payment.**

7) [Gaurav Yadav Vs union of india](#)

(Gujrat High Court / W.P.(C) 5222/2020 / 13-08-2020)

Subject: Rate of tax – appeal in courts

Gist of the case:

- Hon'ble High Court held that
*".....6. Looking to the other prayer in the petition, which relates to reduction of rate of GST on masks and sanitizers, **it ought to be kept in mind that the rate of tax cannot be challenged in a Court of law unless it is abundantly confiscatory in nature.** In the facts of the present case, nothing has been argued out about how the present rate of GST is confiscatory in law. Merely, because this petitioner feels that the GST rate applied on masks and sanitizers is excessive, this cannot be a reason for issuing a writ of mandamus and direct the respondents to reduce tax on the said commodities."*

8) KU Niyas VS Assistant Commissioner

(Kerala High Court / WP C No 13647 of 2020(E)/ 20-08-2020)

Subject: Mode of service - email

Gist of the case:

- Hon'ble High Court held that:

*“3. On consideration of the facts and circumstances of the case and the submissions made across the bar, I **note that as per Section 169(c) and (d) of the GST Act the service of any communication to the e-mail address provided by an assessee at the time of registration, as also by making available the communication in the common portal of the department, is to be treated as an effective communication under the statute.***

9) CIAL DUTY FREE AND RETAIL SERVICES LTD (CDRSL) Vs Union of India & Others

(Kerala High Court /WP(C).No.12274 OF 2020(H)/ 22-09-2020)

Subject: Supply to inbound and outbound passengers in airport by duty free shops.

Facts of the case:

- The petitioner has approached the Hon'ble Court against rejection of refund of excess ITC, accumulated on account of supply of goods at duty free shops to inbound and outbound passengers.

Gist of the case:

- Hon'ble Court allowed the petition and held that:
- Supply of goods from arrival DFSs (Duty free shops) is treated as an export by DFSs and passenger who buys from DFS and thereafter crosses the customs barrier, files import declaration and becomes importer.
- Supply by the DFS of the petitioner to the outbound passenger constitutes exports by the DFS, consequently in terms of section 16(1) of the IGST Act, it becomes a zero-rated supply.

10) Tvl. Transtonelstroy Afcons Joint venture Versus Union of India

(Madras High Court /WP No 8596 of 2019/ 21-09-2020)

Subject: Refunds – Inverted duty structure – input services

Gist of the case:

- The petitioners have filed the writ against Rule 89(5) which do not consider the input tax credit on services while calculating the refund in case of Inverted duty structure
- The Hon'ble Court held that

- All the writ petitions challenging the constitutional validity of Section 54(3)(ii) are dismissed.
- All the writ petitions challenging the validity of [Rule 89\(5\)](#) of the CGST Rules on the ground that it is ultra vires [Section 54\(3\)\(ii\)](#) of the CGST Act and/or the Constitution are dismissed.

Note: This judgment differs with the judgment of Hon'ble Gujrat High Court in VKC Footsteps case.

11) [Smt. Kanishka Matta Vs. Union of India and Others](#)
(HIGH COURT OF MP, INDORE /Writ Petition No.8204/2020/ 26-08-2020)

Subject: Search & Seizure – Cash

Facts of the case:

- Respondents have seized an amount of Rs.66 lakhs alleged to belonged to the husband of the petitioner.
- Petitioner challenged seizure of cash claiming that [Section 67\(2\)](#) does not empower authorities to seize cash.

Gist of the case:

- **Hon'ble Court held that**

In the considered opinion of this Court a conjoint reading of [Section 2\(17\)](#), [2\(31\)](#), [2\(75\)](#) and [67\(2\)](#) makes it clear that money can also be seized by authorized officer.....

Therefore, keeping in view the aforesaid interpretation of the word “thing”, money has to be included and it cannot be excluded as prayed by the petitioner from [Section 67\(2\)](#).

Resultantly, keeping in view the totality of the circumstances of the case, the material available in the case diary and also keeping in view [Section 67\(2\)](#) of the CGST Act, 2017, this Court is of the opinion that the authorities have rightly seized the amount from the husband of the petitioner and unless and until the investigation is carried out and the matter is finally adjudicated, the question of releasing the amount does not arise. The writ petition is dismissed.”

Recent Developments in GST Portal

1. Filing of Annual [GSTR-4 Return](#) is made available on the common portal
 - a. Filing Form GSTR-4 Annual return:
After logging in, click on *Services > Returns > Annual Return > Select FY > Search > GSTR 4 > FILE THE RETURN*.
 - b. Offline tool for filing GSTR-4 has been enabled on the portal. It can be downloaded by navigating to Downloads -> Offline Tools -> GSTR-4 Offline Tool (Annual).

2. GSTN has issued FAQs on filing of NIL GSTR1 returns through SMS and it can be accessed at below URL
https://tutorial.gst.gov.in/userguide/returns/index.htm#t=faq_nilreturn_gstr1.htm

3. A New provision is made available in taxpayer login - "[Download Table 8A Document Details](#)" while filing GST Annual Return.
 - a. Prior to this provision, Table 8A gave only a total figure of ITC, where in it was difficult for the taxpayers to reconcile the ITC claimed, as the invoice-wise break-up of this data was not available.
 - b. Now, a list of invoices appearing in GSTR-2A auto-populated by the GST Portal in Table 8A of GSTR-9 can be verified from this provision.

4. GSTN has released a Statistical report on 3 years of GST. The document can be accessed at the below URL
<https://tutorial.gst.gov.in/downloads/news/3YearReport.pdf>

5. **Additions to GSTR 2A**
 - **Part-Dis added to Form GSTR 2A where two new tables have been inserted for displaying details of the import of goods from overseas and inward supplies made from SEZ units/SEZ developers.**
 - **Taxpayers can now view their bill of entries data which is received by the GSTN from ICEGATE System (Customs).**
 - **Currently, the system is displaying data up to 6th August 2020** and does not contain import information for bill of entries filed at non-computerized ports (**non-EDI ports**) and imports made through courier services/post office. This will be made available shortly.
 - Amendment information made in the details of bill of entries will also be provided soon.

6. GSTN has enabled the option to file GST refund application for the tax periods spread over one or more financial years. The change is made according to the Circular No 135/2020 dt 31.03.2020.
7. Based on the recommendations of the 39th meeting of GST Council held on 14th March 2020, GSTN has initiated a programme by name REAP – Returns Enhancement and Advancement Project.
- As a part of this project, GSTR 2B is the new form available in taxpayer login from the tax period July 2020.
 - It is an auto drafted ITC statement which will be generated for every registered person on the basis of the information furnished by their suppliers in their respective GSTR-1, GSTR-5 (non-resident taxable person) and GSTR-6 (input service distributor).
 - It is a **static** statement and will be made available for each month, on the 12th day of the succeeding month.
 - **GSTR-2B** will help in reduction in time taken for preparing return, minimizing errors, assist reconciliation & simplify compliance relating to filing of returns.
 - Key features in **GSTR-2B** which would assist taxpayers in return filing are as under
 - It contains information on import of goods from the ICEGATE system including inward supplies of goods received from Special Economic Zones Units / Developers. This is not available with the release of GSTR-2B for the month of July and will be made available shortly.
 - A summary statement which shows all the ITC available and non-available under each section. The advisory given against each section clarifies the action to be taken by the taxpayers in their respective section of **GSTR-3B**
 - Document level details of all invoices, credit notes, debit notes etc. is also provided both for viewing and download
 - Taxpayers can access their **GSTR-2B** through:

Login to GST Portal > Returns Dashboard > Select Return period > GSTR-2B

8. In taxpayer login, the functionality “**Comparison of liability declared and ITC claimed**” has been removed from Return Dashboard. It has now been made available on the main page, under the ‘**Services**’ tab, ‘**Return**’ sub-tab as “**Tax liabilities and ITC comparison**”, to make it more user friendly and for ease of access by the taxpayers.

The aforementioned functionality can now be accessed as per the following navigation (Post-login):

Home > Services > Returns > Tax liabilities and ITC comparison

9. An offline tool has been made available to the taxpayers to match Input Tax Credit (ITC), as auto populated in their Form GSTR-2B, with their purchase register. This tool will help the taxpayer to compare their ITC as per their Purchase Register, with the ITC as shown available in their auto drafted Form GSTR-2B and thus help them to claim correct ITC, while filing Form GSTR-3B.

To use the Matching Offline Tool, taxpayer need to:

- a. download the Offline tool from GST common portal and install on their system
- b. download the Form GSTR-2B JSON file from the GST portal
- c. prepare purchase register in the template provided with offline tool
- d. Total number of documents to match should be preferably be less than 3000 in number.

For details, click the link [Matching Tool Details](#)

10. GST e-invoice has been made mandatory w.e.f 01-10-2020 for the firms with aggregate turnover of more than Rs 500 crores. The taxpayer has to generate IRN from the portal <https://einvoice1.gst.gov.in>.

Details can be found at [E-invoice details](#)

11. Delinking of Credit Note/Debit Note from invoice

- Till now, original invoice number was mandatorily required to be quoted by the taxpayers, while reporting a Credit Note or Debit Note in Form GSTR-1 or Form GSTR-6.
- The taxpayers have now been provided with a facility on the GST Portal to:
 - a. Report in their Form GSTR-1 or in Form GSTR-6, single credit note or debit note issued in respect of multiple invoices
 - b. Choose the note supply type as Regular, SEZ, DE, Export etc., to identify the table to which such credit note or debit note pertains
 - c. Indicate Place of Supply (POS) against each credit note or debit note, to identify the supply type i.e. Intra-State or Inter-State
 - d. Debit /Credit Notes can be declared with tax amount, but without any taxable value also i.e. if credit note or debit note is issued for difference in tax rate only, then note value can be reported as 'Zero'. Only tax amount will have to be entered in such cases.
 - e. Similar changes have been made while reporting amendments to credit note or debit note
- Corresponding changes have also been made in refund module. Thus, while applying for refund, taxpayers can now report such credit notes or debit notes in statements (filed during filing the

refund application) without mentioning the related invoice number.

12. GSTN has released a document for developing GST awareness among the taxpayers. Details of Registration, Returns and other compliances were given in the document.

- a. It can be accessed at [GST Welcome Kit for New Businesses](#).

13. Other changes in GST portal

- a. If an authorized signatory is not an Indian, then non-core amendment of application can be done without a zip code.
- b. In cases where SCN was issued to a person applying for Registration for seeking clarity on the document submitted in support of principal place of business, taxpayers were not able to submit the reply.
 - o There was a technical problem in submitting the clarification along with the uploaded document. Now the issue is resolved.
- c. If the application for Composition by a taxpayer is rejected by Tax official, the taxpayer can file form CMP 02 (Opting for Composition), again, for the same financial year.
- d. There is a provision for “Search Composition Taxpayer” in “Search taxpayer” tab. It is available even in pre-login page. A taxpayer can search whether his supplier or recipient is under Composition scheme using this provision. The search results in this page can be optimised with the options “Opted In/Opted Out”.
- e. The taxpayers can now view, file and download the returns for the period July 2017. The returns for this tax period were not available for some period earlier.

Gist of TVATAT Orders

N. Srinivasulu, JC(ST), SR

1) [M/s.Kone Elevator India Pvt.Ltd., Hyderabad – TA NO. 53/2019, dt. 18-11-2019.](#)

Subject: Assessment of works contract where books are not maintained

Facts:

- The appellant had claimed the turnover in respect of design, installation of new elevators as assessable under Section 4(7)(a) r/w. Rule 17(1)(g) as no accounts were maintained. They claim that in respect of AMCs tax should be levied only on the goods portion since separate accounts are maintained

Findings:

- It was held that if the appellant had maintained the books in accordance with the rules laid under the AP VAT Rules, then it could have opted for assessment under Section 4(7)(a) r/w. Rule 17(1)(e). However, the appellant had not chosen to do so and instead opted to offer to tax on the turnovers relating to the goods portion on an ad-hoc portion ranging from 30% to 40% of the invoice value which is not permissible under the law. Thus, the appellant's case evidently falls under the proviso to Section 4(7)(a) where accounts are not maintained to ascertain the value of goods and therefore resort must be made to Rule 17(1)(g) to ascertain the value of goods by allowing an ad-hoc deduction.

2) [M/s.Ammayapper Roadways. – TA No. 35/2011, Dt. 7-12-2019.](#)

Subject: Levy of tax under Section 5(E) of APGST Act

Facts:

- The appellant claimed that they had received hire charges from M/s. RMC Ready Mix Ltd., for hiring the transit mixers but there was no transfer of right to use these goods and therefore the impugned transactions are not liable to tax under Section 5E of the APGST Act, '57.
- The work order / agreement merely stipulate that four transit mixers are to be placed at the disposal of the hiree for transport of RMC every day. The appellant was at liberty to place any vehicle of his choice for this purpose at the disposal of the hiree. It was emphasized that the ownership of the vehicles remained with the appellant only and any accidents / damages shall be settled by the appellant only.

Findings:

- The Hon'ble Tribunal analysed the conditions of agreement between both the parties and all the attributes listed out in the case of Bharat Sanchar Nigam Ltd., and Another vs. Union of India And Others (2006) (145 STC p.91) fully satisfied for transaction to be regarded as a "transfer of right to use the goods", which are
 - a) availability of goods for delivery,
 - b) consensus ad idem as to the identity of the goods,

- c) transferee should have a legal right to use the goods,
 - d) the transferee must have legal right to the exclusion of the transferor of the right to use,
 - e) the owner cannot again transfer the same rights to others.
- In view of the above, Tribunal held that the appellant had transferred the right to use the goods so as to attract liability to pay tax under Section 5E of the APGST Act, '57.

3) [M/s.C.S.R.Constructions, Hyderabad.- TA No. 91/2011, dt. 10-12-2019.](#)

Subject: Exemption from tax under APGST Act for Sub-contractor

Facts:

The appellant, being a sub-contractor, had claimed that he was not liable to pay tax on the sub-contract turnover on which the main contractor has paid the tax on the entire turnover u/s 5G. The agreement entered into with the main contractor mentions that "sales tax and turnover tax on completed works as applicable under the relevant act shall be fully borne by the sub-contractor".

Findings:

The Hon'ble Tribunal held that the main contractor is exempted from the payment of tax on the turnover sub-contracted to the sub-contractor as per the proviso to Sec 5G of APGST Act. However, there is no provision for any exemption to the sub-contractor if the main contractor paid tax on the total consideration. Therefore, the point of levy of tax cannot be shifted and that the appellant is liable to pay tax on the amount received as sub-contractor.

4) [M/s. Huawei Telecommunication \(India\) Company Pvt. Ltd, Secunderabad- TA No. 223/2015, Dt. 16-11-2019.](#)

Subject: Assessment of works contract where books are not maintained

Facts:

The appellant had contended the decision of the assessing authority in disallowing the payments made to the sub-contractors as deduction on the ground that the appellant had not maintained the books of account and claimed deduction under Rule 17(1)(g).

Findings:

- The Hon'ble Tribunal held that the deduction available under Section 4(7)(h) must be construed as made available only in cases where accounts are maintained to determine the value of goods and labour to ensure that correct value of the goods is taxed.
- It is always within the option of the dealer to maintain accounts and claim the correct deductions as stipulated under Section 4(7)(h) and Rule 17(1)(e) or chose not to maintain books and claim an ad-hoc deduction under Rule 17(1)(g). Once the ad-hoc deduction method is chosen by the dealer himself, there was no provision enabling the assessing authority to deduct the sub-contract turnover from the total turnover.

IGST Settlement

Introduction

GST is a destination based consumption tax and IGST settlement mechanism ensures revenue accrues to the states where the consumption takes place. States receive their share of IGST revenue, every month, based on IGST settlement reports generated by the GSTN as per the provisions of the IGST Act.

Centre and States' share of IGST revenue is calculated on the basis of Goods and Services Tax Settlement of Funds Rules, 2017. These rules lay down the procedure to arrive at state's share of IGST revenue. This settlement procedure can broadly be classified as Revenue Inflows to the State and Revenue Outflows of the State, each of which are detailed as under:

Revenue Inflow to the State:

• SGST Liability discharged by utilizing IGST ITC

- Source: GSTR-3B Returns filed by Registered tax payers
- [Section 18\(c\) of the IGST Act](#) provides transfer of utilized IGST ITC to the destination state.
- [REPORT GST STL – 01.03](#) (List of RPs of the state who have adjusted IGST ITC to discharge SGST liability) – Prescribed under the GST Settlement of funds Rules, 2017. This report is generated by GSTN every month.
- For example, an automobile tax payer registered in Telangana discharges his SGST liability using his IGST credit while filing his GSTR-3B return.
- In such case, the IGST ITC utilised to discharge SGST liability, by that TP, accrues to the state on settlement of IGST (end of the month) in contrast to SGST cash payment which accrues to the state immediately.
- This IGST accrues to the Centre or state according to utilisation of IGST ITC in the returns by RPs.
- Hence, return filing by the RP remains to be crucial for the accrual of revenue to the state.
- In some cases, net cash payable by a RP may be nominal, but due to negligence or other reasons, the RP may file return belatedly.
- Generally, settlement reports are run based on the returns filed between 26th of the previous month and 25th of the current month.
- For the state of Telangana, nearly half of GST revenue is from IGST settlement and majority of which accrues from this head.
- **Hence, it is opined that all tax officers should recognize the importance of filing of returns by RPs in time even where the discharge of liability is primarily through credit.**

• On account of In-eligible, Reversed and lapsed IGST ITC

- Source: GSTR-3B Returns filed by Registered tax payers; However, the settlement report was recently run on the basis of GSTR-9 filed.

- [Section 17 of the IGST Act](#) provides transfer of such IGST ITC (ITC which is not eligible) to the Centre and the state where such inward supply took place.
 - IGST ITC is in-eligible in case the inward supply falls under sub-section (5) of section 17 of CGST/SGST Act.
 - In some cases, IGST ITC will be lapsed on account of opting into composition scheme by RP as specified under sub-section (4) of Section (18) of Act.
 - IGST ITC needs to be reversed if the inward supplies used partly for business and partly for non-business purpose; also, if it is used partly for making exempt supplies and partly for taxable supplies - [Section 17\(1\)&\(2\)](#) of the Act r/w Rule 42 and 43 of the Rules.
 - In all such cases, 50% of such IGST ITC accrues to the Centre and balance accrues to the state – [Section 17\(1\)\(b\) of IGST Act](#).
 - [REPORT GST STL – 01.06](#)(Report of RPs who had declared IGST ITC as in-eligible/ reversed ITC including IGST ITC lapsed due to opting into composition scheme).
 - RPs shall declare ineligible ITC at table 4(D) of GSTR- 3B return. If a taxpayer fails to declare such ineligible IGST ITC in his return treating it to be insignificant (say a RP purchased an automobile from outside the state) the state loses revenue.
 - **Hence, it is opined that tax officers should be fully aware of implications of incorrect filing of returns and shall identify potential cases to create awareness among such tax payers.**
 - ITC will also be lapsed as specified under [Section 16\(4\) & 18\(4\) of the Act](#).
 - Section 17(1)(c) of the IGST Act provides transfer of ITC which is not availed within the specified timeto be apportioned to the destination state.
 - [REPORT GST STL – 01.07](#)(Report of RPs who had made inter-state purchases and did not avail of the credit up to a specified period). The periodicity of this report is annual.
 - These reports will be generated on the basis of GSTR-9 filed by the taxpayers (Table 7& 8) will be picked up.
 - **Hence, an inference can be drawn that though GSTR-9 filing has been made optional for taxpayers with turnover less than 2 Crores, as there are revenue implications, identified taxpayers need to be persuaded to file the GSTR-9 properly (duly declaring the in-eligible ITC, lapsed ITC and reversed ITC) irrespective of the turnover. Thereby, the state will receive its share of revenue on IGST settlement.**
- **On account of inter-state supplies made to un registered persons and composition tax payers located in our State by the outside the state RPs:**
 - Source: Data from returns of other state tax payers.

- IGST paid by RPs on account of supplies to un-registered persons/composition tax payers is apportioned as per [Section 17\(1\)\(a\) of IGST Act.](#)
- [REPORT GST STL – 01.04](#)(Report of other state taxpayers who have made inter-state supplies to unregistered persons in Telangana)
- [REPORT GST STL – 01.05](#)(Report of other state taxpayers who have made inter-state supplies to composition taxable persons in Telangana)
- **On account of Imports made by un-registered persons, composition taxable persons, in-eligible and lapsed credit pertaining to imports:**
 - Source: Data from Customs, GSTR-4 & GSTR-9.
 - IGST paid on Imports made by un-registered persons will be apportioned to the States based on the address of such persons as per [Section 17\(1\)\(d\) of IGST Act.](#)
 - [REPORT GST STL – 01.08](#)(Report of Unregistered persons who have made imports – Basing on the data available with the Customs authorities).
 - IGST paid on Imports made by composition taxable persons will be apportioned based on the return filed by the Composition taxable person as per [Section 17\(1\)\(d\) of IGST Act.](#)
 - [REPORT GST STL – 01.09](#)(Report of Composition taxable persons who have made imports – from GSTR-4).
 - IGST paid on Imports by RPs, where the credit is declared as in-eligible or not availed within the specified period will be apportioned based on the GSTR-3B and GSTR-9 as per [Section 17\(1\)\(e\) & 17\(1\)\(f\) of the IGST Act.](#)
 - [REPORT GST STL – 01.10](#)(Report of RPs who have made imports but ITC is declared as in-eligible– from GSTR-3B- as per the existing return format these amounts should form a part of STL 1.06).
 - [REPORT GST STL – 01.11](#)(Report of RPs who have made imports but ITC not availed within specified time – from GSTR-9 (Table 8)).
 - It may be pertinent to note that the quantum of amounts received under these reports is solely dependent on the correct declaration of relevant fields in GSTR-4 and GSTR-9. (i.e. details of imports in GSTR-4, Lapsed import IGST ITC in Table 8 of GSTR-9).
- **On account of interest paid by taxable persons:**
 - Source: Data from GSTR-3B and DRC data pertaining to the taxpayers
 - IGST Interest paid by the RPs shall be apportioned as per [Section 17\(3\) of IGST Act.](#)
 - [REPORT GST STL – 01.12](#)(Report of RPs who have paid IGST interest, fee for Advance Ruling).

Revenue Outflow from the State: IGST settlement revenue is reduced on account of:

- Source: GSTR-3B Returns filed by Registered tax payers
- Section 53 of the SGST Act provides for Transfer of utilized SGST ITC to the IGST Account.
- [REPORT GST STL - 01.02](#) (List of RPs of the state who have adjusted SGST ITC to discharge IGST liability).
- **In order to minimize on the Revenue Outflow, one must be vigilant in identifying any undesired transactions in this category as detailed below:**
 - **Incorrect reporting of IGST liability (by raising IGST invoices) instead of SGST & CGST – Place of supply issue**
 - **Wrong claim / fake claim / Ineligible utilization of SGST ITC to discharge IGST liability.**

Conclusion:

- Non reporting of IGST ITC details by following category of tax payers will affect the State's revenue:
 - Composition tax payers' inward inter-state supplies, imports.
 - **Suppliers mostly dealing in exempt supplies – hospitals, educational institutions, distilleries, oil companies etc – declaration of Credit reversals details**
 - Others such as banks, insurance companies, manufacturers of exempt goods etc., –reversal of credit and lapsed credit
 - **It is pertinent to note that most of the banking companies/financial institutions availing the scheme of 50% ITC are not reporting the credit lapsed under section 17(4) of the CGST/SGST Act.**
- **Table 8 of GSTR 9 is very important especially with lapsed credit as it gives revenue to the State.**
- In all, correct reporting of IGST credit including ineligible ITC, reversed and lapsed credit by tax payers in their returns ensures accurate settlement of revenue to the state in the form of IGST settlement.

Note:

- **The officials of the department are requested to refer to the Acts, Rules, Original Notifications, Circulars, Judgments, orders etc published in the Gazette/GO, Hon'ble court websites related to the content, documents (provided through links) in this magazine before using them. Documents and content are provided only for reference purpose.**
- We regret to inform that though many officials have contributed Articles related to GST, due to space constraint we are unable to publish in this edition. Those articles will be considered for publication in the next edition.



HARITHA HAARAM



TELANGANA

