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The logo for CGA Legal is located in the top left corner. It consists of a yellow triangle pointing to the right, containing two curved lines in a reddish-brown color. The text "CGA LEGAL" is written in blue capital letters across the middle of the triangle.

CGA LEGAL

THE GST BULLETIN

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A decorative graphic in the bottom right corner features a yellow hexagon at the top, with a 3D cube-like structure below it. The structure is composed of several overlapping hexagonal outlines in a golden-yellow color, creating a geometric, crystalline appearance.

About The GST Bulletin

The GST Bulletin is a Weekly Newsletter from Team CGA Legal, a leading Indirect Tax Consultancy firm. The Newsletter is intending to keep its readers updated with all important legal and judicial updates in Goods & Services Tax and other Indirect Tax laws. The Newsletter also has a special column of GST Compliance Calendar for the month. Along with it, CGA Legal also sends various legal recommendations which have immense implications in improving the compliance of GST in your business.

All editions of our newsletters can be referred from below link below;
<https://www.cgalegal.co.in/home/newsletters.php>

Other Offerings from Team CGA Legal

- **CGA Legal GST Compliance Calendar:** Our Monthly Calendar detailing all GST related compliances for the month so that you never miss of any of the compliances.
- **CGA Legal Meet:** Our Monthly Webinar series discussing various trending GST legal and compliance issues

All the previous editions can be accessed on our website
www.cgalegal.co.in

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GST Updates – GST Notification

Ntf. No.	Summary of Notifications
08/2022 – CT Dated 07.06.2022	Waiver of interest for specified electronic commerce operators for specified tax periods The CBIC has issued notification whereby it has waived interest for specified electronic commerce operators for specified tax periods. As per the notification, the interest has been waived in the case of electronic commerce operators having specified GSTIN and who could not file the statement under section 52(4) of the CGST Act, for specified months, by the due-date, due to technical glitch on the portal but had deposited the tax collected under section 52(1) for the said month in the electronic cash ledger.

GST Updates – GST Technical Updates

Module wise new functionalities deployed on the GST Portal for taxpayers

Dated: 06-06-2022

Various new functionalities are implemented on the GST Portal, from time to time, for GST stakeholders. These functionalities pertain to different modules such as Registration, Returns, Advance Ruling, Payment, Refund and other miscellaneous topics.

New Functionalities made available for Taxpayers on GST Portal (May, 2022) are provided below:

❖ Registration :

S. No.	Form/Functionality	Functionality made available for Taxpayers
1.	Bank Account Validation of Taxpayers	<ul style="list-style-type: none"> To establish correctness of the bank account and to verify whether it matches with the PAN of the business, validation of the bank account details provided at the time of GST Registration/ Creation of Temp ID by the taxpayers is being done with CBDT database. The status based on validation result is displayed to the registered taxpayers and Temp ID holders on their dashboard Taxpayers and Temp ID holders can verify their Bank account status in their profile by clicking on the Bank Account Status link under Quick Links.

GST Updates – GST Technical Updates

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❖ Returns :

S. No.	Form/Functionality	Functionality made available for Taxpayers
1.	Improvements made in filing process of GSTR-4 (Annual)	<ul style="list-style-type: none"> • Taxpayers who opt for Composition Levy are required to file an annual return in Form GSTR-4 from FY 2019-20 onwards. • Several taxpayers were earlier filing GSTR-4 without filling up the required details in Table-6 of the said form with the result that the amount paid through Form CMP-08s became excess tax paid and got credited to Negative Liability Statement • To prevent taxpayers from making this mistake, they are now shown a warning message, "Table 4A to 4D and Table 6 outward supplies are required to be filled by taxpayer" • A reconciliation statement is also shown if difference occurs in table 5 and 6. • In addition, for taxpayer who have already filed Form GSTR-4 wrongly for the FY2019-20 and/ or FY2020-21, a code was deployed to update the Ledger Tables for correcting the negative liability, in the backend.
2.	Changes in Table 12 of Form GSTR-1 for enabling HSN validation for taxpayers with AATO more than Rs 5 Crore	<ul style="list-style-type: none"> • The taxpayers are required to furnish HSN wise summary of outward supplies in Table 12 of Form GSTR-1 on the basis of their Annual Aggregate Turnover (AATO) as per the following scheme.

GST Updates – GST Technical Updates

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S. No.	Form/Functionality	Functionality made available for Taxpayers
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- Taxpayers with AATO of up-to Rs 5 crore have to report their supplies at minimum 4 digit and maximum 8 digit HSN/SAC code for their B2B supplies.
- Taxpayers with AATO of more than 5 Crore have to report their supplies at minimum 6 digit and maximum 8 digit HSN/SAC code for B2B and B2C supplies.
- Accordingly, a phase wise AATO based validation has been built into the system to ensure that taxpayers with AATO of up-to Rs 5 crore have to report minimum 2 digit HSN and more than Rs 5 crore have to report minimum 4 digit HSN in table 12 of GSTR-1 in the phase 1 of HSN validation at the portal.

3. Changes made in Form GSTR-11

- The placement of 'INITIATE PRE-FILL OF GSTR-11' button has now been changed to right side corner of the screen.
- As and when a user clicks on this button, a warning message, "You are about to initiate the auto population of filed GSTR1/5 records in your Form GSTR-11.You may view/Edit/Delete the auto populated records in the respective GSTR-11 tables. Do you want to proceed?" would be displayed.

GST Updates – GST Technical Updates

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❖ Refund :

S. No.	Form/Functionality	Functionality made available for Taxpayers
4.	Facility to apply for Temp User ID by an unregistered persons for claiming refund on GST Portal.	<ul style="list-style-type: none"> • The un-registered persons will now be able to apply for Temp User ID on GST Portal by selecting the reason for registration as, “To claim Refund”. • They will be able to add their bank account details at the time of applying for Temp ID and subsequently edit their profile in respect of Authorized Signatory, Address and Bank Account details, if required. • They can subsequently file for refund under the appropriate category on the Portal using their Temp ID credentials.

GST Update – CBIC Instructions

Procedure relating to sanction, post-audit and review of refund claims

Instruction No. 03/2022-GST Dated: 14-06-2022

Sanction of Refund

Detailed guidelines for processing of refund claims in GST have been issued by the Board vide Circular No. 17/17/2017 -GST dated 15.11.2017 (for manual processing of refunds) and Circular No. 125/44/2019-GST dated 18.11.2019 (for electronic filing and online processing of refunds) to ensure uniformity in processing of refund claims. In both of these Circulars, it has been mentioned that the proper officer shall follow the principle of natural justice before taking the final decision with regard to refund claim. Principle of natural justice inter-alia provides that a detailed speaking order needs to be issued providing a basis for sanction/rejection of refund. Therefore, while passing the refund sanction order in FORM GST RFD-06, the proper officer should also upload a detailed speaking order along with refund sanction order in FORM GST RFD-06. In order to ensure uniformity in issuance of such speaking order, it is clarified that such speaking order should inter alia contain the details as specified in the Instruction.

It is mentioned that ACES-GST portal provides the facility for uploading a document in pdf format along with the FORM GST RFD-06 order. The same may be utilized by proper officer for uploading the speaking order along with refund sanction order in FORM GST RFD-06 so that the same is made available to the refund applicant as well as Post-audit/Reviewing Authority online.

Post-Audit and Review

The post-audit and review of the refund claims shall be conducted as per the following guidelines:

(a) All the refund orders passed should be immediately transmitted online to the review module after issuance of refund order in FORM GST RFD-06. The review and post-audit officers shall have access to all documents/ statements on ACES-GST portal pertaining to the said refund claims.

GST Update – CBIC Instructions

Procedure relating to sanction, post-audit and review of refund claims

Instruction No. 03/2022-GST Dated: 14-06-2022

(b) For the purpose of post-audit of refund order, a Post-Audit Cell under a Deputy/Assistant Commissioner along with one/ two Superintendents and Inspectors as required, may be created in Commissionerate Headquarters.

(c) The post-audit should be concluded within 3 months from the date of issue of FORM GST RFD-06 order. The findings of the post-audit shall be communicated to the review branch within the said time period of 3 months.

(d) The review of refund order shall be completed at least 30 days before the expiry of the time period allowed for filing appeal under Section 107(2) of the CGST Act.

Till the time the functionality for conducting post-audit online is developed on ACES-GST portal, post-audit of refund orders may be conducted in offline mode. For the said purpose, the refund orders covered above and the relevant documents may be provided to the post-audit cell by the concerned Division through e-Office within 7 days of issuance of refund sanction order in FORM GST RFD-06. The report of the post audit may be furnished by the Post-Audit Cell to the Review Cell through e-Office as per the time-limit specified above.

GST News

Ministers meet on GST rationalization fails to reach consensus

Date: 18-06-2022

The Group of Ministers (GoM) on goods and services tax (GST) rate rationalisation could not reach a consensus on inverted duty correction or changes in slabs at a virtual meeting on Friday, said people with knowledge of the matter. The GoM is unlikely to have its report ready by the time of the GST Council meeting on June 28-29 in Srinagar and will possibly get an extension of four-six months, they said.

The seven-member ministerial group led by Karnataka chief minister Basavaraj Bommai Bommai met online to examine various options for changing tax slabs, revenue augmentation and inverted duty correction, among others.

"The GoM meeting remained inconclusive. Many members felt that this is not the right time to go for inverted duty correction," said one of the persons cited above.

Source: <https://economictimes.indiatimes.com/news/economy/finance/ministers-met-on-gst-rationalisation-fails-to-reach-consensus/articleshow/92291292.cms>

GST – Judicial Precedents

1. Input Tax Credit

Whether ITC admissible on GST paid on GTA Service despite vehicles travelling empty in return Journey?

M/s. Vadilal Enterprises Ltd [AAR, Gujarat]

Facts: The applicant is in the business of supplying ice-cream For transporting the goods to places located in different states, Vadilal has been using refrigerated vehicles because the goods have to be stored and preserved at a particular temperature to avoid deterioration in quality.

After delivering the goods at the destination, the refrigerated vehicle comes back. During the return journey, ordinarily, the vehicle travels empty. Vadilal submitted that since refrigerated vehicles ordinarily travel back without any goods being transported i.e. in empty condition; it has engaged a few agents/agencies who could locate customers whose goods could be transported in the empty refrigerated vehicles during their return journey. If empty vehicles during their return journey are thus used for transporting goods of other customers, then some revenue could be generated by charging transportation expenses from such parties, which may result in additional revenue to Vadilal and reduction in overall cost to the organization.

Now, the applicant has sought an advance ruling on the issue of whether the applicant can avail input tax credit for the entire amount of GST paid on the transaction of the applicant's goods in refrigerated vehicles, although the vehicles travel empty (i.e. without the applicant's goods being loaded therein) during the return journey.

Held: The AAR observed that the GST liability for supply of service by a GTA in respect of transportation of goods by road to a registered person shall be paid by the recipient of services. The applicant is liable to GST under Reverse Charge Mechanism (RCM) for the GTA service supplied to it.

"ITC is admissible to Vadilal on GST paid on GTA service supplied to it, despite the fact that refrigerated vehicles travelled empty during the return journey, as Vadilal had paid an agreed freight to the GTA for its service and this agreed freight was inclusive of both the onward and return journey.

GST – Judicial Precedents

2. Reverse Charge

Whether receiver is liable to pay tax under RCM in case of secondment of employees by foreign group companies?

C.C.,C.E. & S.T. – Bangalore (Adjudication) etc. Versus M/s Northern Operating Systems Pvt Ltd. [Supreme Court]

Facts: The respondent, had contracted with its overseas group entities for rendering back-office support and information technology support services. Under the contract, the overseas entity was required to second its employees (Seconded Employees) to the Assessee as per the Assessee's requests. The Seconded Employees were required to act under the directions and control of the Assessee. However, the salary, bonus/incentives, social security and welfare benefits of the Seconded Employees were paid to them by the overseas group entity. Such expenses were subsequently reimbursed by the Assessee to its overseas entity. The liability to pay service tax on such reimbursements by the Assessee was in question before the Supreme Court (SC).

Held: SC observed that, while deciding whether an arrangement is a contract "of" service or a contract "for" service, the courts do not give primacy to any single determinative factor. It has consistently applied one test: substance over form, requiring a close look at the terms of the contract or the agreements.

The overall effect of the agreements clearly points to the fact that the foreign company has a pool of highly skilled employees, who are entitled to a certain salary structure as well as social security benefits. These employees, having regard to their expertise and specialization, are seconded (deputed) to the Indian entity for use of their skills.

While the seconded employee, for the duration of secondment, is under the control of the Indian entity and works under its direction, the fact remains that they are on the payrolls of their foreign employer. The secondment is a part of the global policy of the overseas employer loaning their services on a temporary basis. On the cessation of the secondment period, they must be repatriated in accordance with a global policy.

Accordingly, SC held that the Indian entity was the service recipient of the foreign company, which can be said to have provided manpower supply service or a taxable service.

GST – Judicial Precedents

3. Authority for Advance Rulings

Maintainability of application for advance ruling in case of recipient of services

M/s. Gurunanak Romell LLP [AAR, Maharashtra]

Facts: The applicant, seeking an advance ruling in respect of the following question.

- a) Whether Entry No. 3(v) (da) of Notification 11/2017 Central Tax (Rate) dated 28/06/2017, as amended time to time, applies to the works contract service received from the contractors?
- b) Whether the benefit of concessional rate would be available to construction of common amenities such as club house, swimming pool and amenities of like nature?

Held: Sub-section (1) of section 103 of the CGST Act, 2017 categorically speaks that the ruling pronounced is binding only on the applicant and on the concerned officer or the jurisdictional officer in respect of the applicant. If an application is filed by the recipient of goods or services or both on the taxability of his inward supply of goods or services and ruling is pronounced accordingly, such ruling shall be binding only on him and on the concerned officer or the jurisdictional officer of him. In no way, the ruling shall be binding on the supplier of such goods or services.

Any provisions of the Law, therefore, should not be interpreted in a way which defeats the very purpose of the objective and purpose of the legal provision. Thus, in the subject application, the applicant cannot seek an advance ruling in relation to the supply where it is a recipient of services.

Since provisions of Sec 95 (a) are very clear and unambiguous that only a supplier can file application for advance ruling, hence, the contentions of the applicant are not accepted.

Thus, no ruling can be given on the Questions, since the applicant is recipient of services in respect of supplies involved.

GST – Judicial Precedents

4. Valuation of Supply

Whether the reimbursement of stipend amounts from the various Trainer Institutes and remitting the same to the trainees shall be included in the value of supply?

M/s. Patle Eduskills Foundation [Authority for Advance Ruling, Maharashtra]

Fact: The applicant, seeking an advance ruling in respect of the following questions.-

Whether the Applicant, in the capacity of being a NEEM facilitator, acts as a 'Pure Agent' while receiving reimbursement of stipend amounts from the various Trainer Institutes and remitting the same to the trainees?

If not, whether such stipend amount forms a part of the taxable value?

Held: A monthly stipend shall be paid to the trainees by Trainer Institute by way of issuing a cheque in the name of the Applicant who is required to make such payment to the trainees. The sample agreement submitted mentions that, the Applicant is to act as a "Pure Agent" of the Trainer Institute.

In the case of M/s. Yashaswi Academy For Skills [Authority For Advance Ruling, Maharashtra] also, the Applicant Company was registered as an Agent under National Employment Enhancement Mission ('NEEM') of the Government of India and acted as a facilitator or extending support for mobilizing the trainees under NEEM Scheme of Government of India as per regulations, under notification issued by All India Council for Technical Education (AICTE), for providing on the job practical training in industries to trainees to enhance their future employability, and for which the applicant entered into agreements with various companies/ organizations (called as industry partners) to impart actual practical training to the students..

In the said case also, the applicant in addition to taxable amounts received from its Industry Partners for services rendered, also received Stipends amounts (payable by the Industry Partners to the Trainees) which was paid in full to the trainees. Thus, stipend amount received from the Industry Partners shall not form part of the taxable value.



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