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CGA LEGAL

Your GST Knowledge Partner

The GST Bulletin

Month: March 2022 – Issue-3

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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 Compliance Calendar - April 2022

Statutory Due Date	Type of Return	Period	Type of Taxpayer
10-04-22	GSTR-7	March-2022	TDS Deductor
10-04-22	GSTR-8	March-2022	E-Commerce Operator
11-04-22	GSTR-1	March-2022	Turnover more than INR 5 crore in the preceding FY & Turnover up to INR 5 crores and have opted for monthly return filing.
13-04-22	GSTR-1	January – March- 2022	Turnover up to INR 5 Crores and under QRMP Scheme
13-04-22	GSTR-6	March-2022	ISD
18-04-22	CMP-08	January- March- 2022	Composition Dealer
20-04-22	GSTR-3B	March-2022	Turnover more than INR 5 crore in the preceding FY or Turnover upto INR 5 crore in the preceding FY but opted for monthly return filing
20-04-22	GSTR-5	March-2022	Non-Resident Taxable Person
20-04-22	GSTR-5A	March-2022	OIDAR
22-04-22	GSTR-3B	January- March- 2022	Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for *Category A States
24-04-22	GSTR-3B	January- March- 2022	Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for **Category B States
25-04-22	ITC-04	October 2021 – March 2022	Registered person sending goods for Job work whose aggregate turnover during the immediately preceding financial year exceeds 5 Cr

GST Compliance Calendar - April 2022

Statutory Due Date	Type of Return	Period	Type of Taxpayer
25-04-22	ITC-04	April 2021 – March 2022	Registered person sending goods for Job work whose aggregate turnover during the immediately preceding financial year does not exceed 5 Cr
30-04-22	GSTR-4	FY 2021-22	Annual Return Composition Taxable Person
30-04-22	Opting in / out of QRMP Scheme	April – June 2022	Registered person having aggregate turnover upto Rs 5 crores

Notes:

Categories of Taxpayers whose Aggregate Turnover is upto INR 5 crore for the purpose of filing GSTR-3B:

* **Category A:** Regular Taxpayers having an aggregate turnover of upto INR 5 crores whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

** **Category B:** Regular Taxpayers having an aggregate turnover of upto INR 5 crores whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.

GST Updates – CBIC Instructions

Standard Operating Procedure (SOP) for Scrutiny of returns for FY 2017-18 and 2018-19

Instruction No. 02/2022 – GST

Dated 22-03-2022

Section 61 of the CGST Act, 2017 read with rule 99 of CGST Rules, 2017 provides for scrutiny of returns and related particulars furnished by the registered person. Till the time a Scrutiny Module for online scrutiny of returns is made available on the CBIC-GST application, as an interim measure, the Standard Operating Procedure (SOP) is being issued by the Board in order to ensure uniformity in selection/ identification of returns for scrutiny, methodology of scrutiny of such returns and other related procedures.

For detailed SOP kindly follow the below link:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/instruction-no-022022-gst-dated-22032022.pdf>

GST News

GST: Smaller firms scramble to comply with e-invoicing norms

Dated 29-03-2022

Smaller firms are running against time to comply with the e-invoicing norms under the goods and services tax regulation, applicable from April 1, 2022.

The compliance of norms initially started with entities having turnover exceeding Rs 500 crore in October 2020, thereafter extended to Rs 100 crore in January 2021 and Rs 50 crore in April 2021. The said limit is now applicable to those having turnover above Rs 20 crore from April 2022. The smaller firms started working on the same after the notification reducing the limit to Rs 20 crore was issued in February 2022. The government lowered the threshold, bringing more firms under the gambit of e-invoicing as it tries to get hold of the fraudsters and curb GST evasion.

For detailed news, kindly follow the link below:

<https://cfo.economictimes.indiatimes.com/news/gst-smaller-firms-scramble-to-comply-with-e-invoicing-norms/90507741>

GST – Judicial Precedents

1. Classification

Classification of Apple juice based drinks in the name of 'Apple Cola Fizzy' and 'Malt Cola Fizzy'

M/s. Mohammed Hasabhai Karbalai [Authority for Advance Rulings, Gujarat]

Facts: The applicant submits that it intends to supply Thermally Processed Ready to Serve Fruit Beverage. The applicant cites entry 2.3.10 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulation, 2011 for classification of goods. It shall be a ready to serve fruit beverage with different flavours. The applicant initially intend to supply apple juice based drinks in the name of 'Apple Cola Fizzy' and 'Malt Cola Fizzy '. Both the drinks will be apple juice based drinks having same ingredients and manufacturing process, the second one having an added flavour of malt.

Held: The Legislature has empowered competent authority vide Section 168 CGST Act, 2017 with the power to issue Instruction or directions as per the GST scheme of law. As per CGST Act and rules framed thereunder, we do not find FSSAI empowered under GST scheme of law to issue directions/ instructions for GST Classification.

The subject goods which consist of water, sugar, sweetener, apple juice concentrate, flavours, aerated with carbon dioxide gas and presented in airtight containers fulfil the criteria to merit consideration for classification at HSN 220210 - also, there is a Tariff item at 22029920 with the description 'fruit pulp or fruit juice based drinks'. Now it is observed that the subject goods having apple juice concentrate 1.9 % [Equivalent to 12.7% Apple Juice Reconstituted] appear to satisfy this description also and prima facie this heading 22029920 cannot be brushed aside as not applicable for subject goods.

From reading of Annexure III to the recommendation of the Fitment Committee, it is noted that the Fitment Committee has cited classification of Carbonated beverages with fruit juice at HSN 220210. We, further note that GST Council has approved the recommendation of Fitment Committee. Thus, with this, we infer that competing entries of HSN 220210 and 220299 for subject goods, is answered by the GST Council decision to be 220210 for carbonated beverages with fruit juice. Apple Cola Fizzy and Malt Cola Fizzy are Carbonated Beverages with fruit juice, classifiable at HSN 22021090 - GST is leviable at 28% on said goods - GST Compensation Cess leviable at 12% on said Goods.

GST – Judicial Precedents

2. Authority for Advance Rulings

Scope of Advance Ruling is limited to the transactions being undertaken or proposed to be undertaken

M/s. Shri Vinayak Bulidcon [Authority for Advance Rulings, Rajasthan]

Facts: The applicant entered into an agreement on 13.12.2019 with Builder i.e. M/s Sanwaliya Buildcreation LLP for labour work related to civil work and development of residential houses at “Sanwaliya Dham”, Debari, Udaipur under Chief Minister's Jan Awas Yojna-2015. A copy of agreement {between the applicant and Builder) dated 13.12.2019 has been provided with the original submissions. The issue pertains to applicability of exemption notification No. 12/2017-Central Tax (Rate), dated 28.06.2017.

Held: The scope of the Advance ruling for Authority for Advance Ruling (AAR) is limited to the transactions being undertaken or proposed to be undertaken - In the instant case, the application seeking advance ruling was filed on 06.07.2021 before the AAR with respect to supplies undertaken for the period from 01.04.2019 to 31.03.2021. Hence the case is out of the purview of the Advance Ruling.

The subject application for advance ruling made by the applicant is not maintainable and rejected under the provisions of the GST Act, 2017.

3. Detention of Goods and Vehicle

Power of police authorities to check and inspect vehicles under GST

Vishal Gupta versus State of U.P. [Allahabad High Court]

Held: If the goods were not accompanied by proper documents for transportation, it is only the authorities under the U.P. Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 and I.C.S.T. Act, 2017, as the case may be, are empowered to check and take action in accordance with law, as provided under the relevant Acts and Rules. But the police has no authority to check invoices etc. and accounting the goods during transportation.

The impugned first information report, on the very face of it, prima facie, reflects ill intention of the informant and obstruction in free flow of trade and commerce.

GST – Judicial Precedents

4. Blocking of Electronic Credit Ledger

Explanation of “reason to believe” while exercising the power under Rule 86A of CGST Rules

M/s New Nalbandh Traders Versus State of Gujarat [Gujarat High Court]

Facts: It is the case of the writ applicant that when it received the goods from the supplier, it also received tax invoices, weighment slips, e-way bills etc. which are the documents prescribed for the purchase under the provisions of the CGST Act, 2017. It is also the case of the writ applicant that the purchase made by it were duly reflected in the Form GSTR – 3B, Form GSTR – 2A and Form GSTR – 2B respectively. It appears that one day, it came to the notice of the writ applicant that the respondent no.3 herein had blocked the ITC in exercise of power under Rule 86A of the Rules to the tune of ₹ 97,17,290/- (Rupees Ninety Seven Lakhs Seventeen Thousand Two Hundred and Ninety Only) on the purchases made from M/s. Anmol Enterprise.

It is the case of the writ applicant that he came to know about such blocking of the ITC through E-mail and SMS on 28.07.2021. Upon receipt of an E-mail and SMS referred to above, the writ applicant checked up with the GST portal wherein it is was displayed that the ITC had been blocked by the respondent no.3 without assigning any reasons. It is the case of the writ applicant that he inquired with the respondent no.3 as to on what basis, the ITC was blocked but, there was no response at the end of the respondent no.3. In such circumstances referred to above, the writ applicant is here before this Court with the present writ application.

Held: Rule 86A undoubtedly could be said to have conferred drastic powers upon the proper officers if they have reason to believe that the activities or invoices are suspicious. The Rule 86A is based on “reason to believe”. “Reason to believe” must have a rational connection with or relevant bearing on the formation of the belief. It is a subjective term and can be interpreted differently by different individuals. Prima facie, it appears that the Rule 86A does not even contemplate for issue of any show-cause notice or intimation notice. In such circumstances, the person affected may be taken by surprise when he would go to the portal to pay taxes and finds that his ITC is not usable.

GST – Judicial Precedents

4. Blocking of Electronic Credit Ledger

Explanation of “reason to believe” while exercising the power under Rule 86A of CGST Rules

M/s New Nalbandh Traders Versus State of Gujarat [Gujarat High Court]

The power under rule 86-A which in effect is the power to block ECL to the extent stated earlier is drastic in nature. It creates a disability for the tax payer to avail of the credit in ECL for discharge of his tax liability, which he is otherwise entitled to avail. Therefore, all the requirements of rule 86-A would have to be fully complied with before the power thereunder is exercised. When this rule requires arriving at a subjective satisfaction which is evident from the use of words, “must have reasons to believe”, the satisfaction must be reached on the basis of some objective material available before the authority - Any administrative power having quasi-judicial shades, which brings civil consequences for a person against whom it is exercised, must answer the test of reasonableness. It would mean that the power must be exercised fairly and reasonably by following the principles of natural justice.

The provisions made in rule 86-A would require the Competent Authority to first satisfy itself, on the basis of objective material, that there are reasons to believe that credit of input tax available in ECL has been fraudulently or wrongly utilised and secondly to record these reasons in writing before the order of disallowing debit of requisite amount to the ECL or requisite refund of unutilised credit, is passed or otherwise the order of blocking the ECL under rule 86-A would be unsustainable in the eye of law - It can be said that there is a specific mechanism for reversing the credit in the case of a discrepancy in the ITC availed by the recipient, against the output liability of the supplier. However, the ITC reversal mechanism, as laid down in section 41 read with Rules, is kept in abeyance. The facility to furnish GSTR – 2 and GSTR – 3 Forms is also not available. Accordingly, there is no system-based matching of the ITC being carried out presently, and till the time such provisions are given effect, the recipients shall be eligible to claim ITC provisionally on the basis of the invoice issued by customer.

The impugned order of blocking of the ECL of the writ applicant is hereby quashed and set aside - Application allowed in part.

GST Articles

FY 2021-22 Ending Activities in GST

Dated 26-03-2022

Indirect Tax proposals made through Budget 2022 indicate the intent of the government to tighten the compliance regulations regarding the availment of Input Tax Credit and other compliance requirements under GST.

Needless to say that seamless flow of Input Tax Credit which is the heart of GST is becoming seen less flow of ITC leading to heart break for taxpayers.

In this compliance burdened scenario, it has been observed that number of businesses often tend to miss this important aspect of Financial Year closing.

As we are approaching towards the end of FY 2021-22 and ushering towards new financial year, FY 2022-23, it is important to consolidate the data for previous financial year and undertake various compliance related requirements for the coming financial year. Thus, it is very imperative to focus on the financial year ending tasks.

This article is an attempt to provide you an illustrated checklist of various GST related compliances which form the part of your year-end compliance deliverables. Kindly find below the analysis of various errands that need to be taken care of at this juncture:

1. GST Compliance Requirements for Invoicing

- **Invoicing series to be renewed as on 1st April 2022:** Since a new Financial year is starting, tax invoice series need to be renewed as per Rule 46(b) of CGST Rules.
- **Debit and Credit Notes:** Debit and credit notes need to be issued in case of fluctuations made in the sales returns and purchase return made during the year to keep the records upto date.
- **Self-Invoicing and Payment Vouchers:** In respect of Reverse Charge Supplies and Inward Supplies in case of Import of Services received during FY 2021-22, issue of self-invoice need to be taken care off. Non-issue of self-invoice leads to denial of ITC to the recipient. Also, it may review that the payment vouchers have been issued for all the payment for the supplies attracting reverse charge have been made.

GST Articles

FY 2021-22 Ending Activities in GST

Dated 26-03-2022

2. GST Compliance Requirements for Outward Supplies

- **E-Invoicing:** Mandatory E-invoicing in case of outward supplies is applicable for turnover above Rs.20 crores w.e.f. 01st April 2022. Businesses need to take care that they have adopted mechanism to generate e-invoices as the failure may cause the denial of ITC to the recipient and this could result in the loss of business links.
- **Inter-Company and Inter-group Cross charge:** Ensure that all cross-charges for supplies made between distinct persons and with related parties (within India as well as outside India) are appropriately reported in the GST returns. It is also to be ensured that a formal agreement to be made by the Company with its distinct persons or related parties for the purpose of supplies of services by way of cross charge.
- **Self-Invoicing and Payment Vouchers:** In respect of Reverse Charge Supplies and Inward Supplies in case of Import of Services received during FY 2021-22, issue of self-invoice need to be taken care off. Non-issue of self-invoice leads to denial of ITC to the recipient. Also, it may review that the payment vouchers have been issued for all the payment for the supplies attracting reverse charge have been made.

3. GST Compliance Requirements for Input Tax Credit

- **Time limit to avail ITC:** ITC for the FY 2021-22 can be taken upto the return for the month of September 2022. As a precautionary measure, creditors outstanding on March 2022 may be evaluated to ensure ITC on such invoices is taken.
- **ITC Reversal:** Reverse ITC on instances where the Company has not paid the consideration to the Supplier within 180 days from the date of supplier's invoice. Keep the Creditors reconciliation ready for the invoices above 180 days and take appropriate actions.
- **Reconciliation of ITC:** Keep monthly reconciliation between Purchase ledger Vs GSTR-2B ready to comply with the provisions of Rule 36(4) of CGST Rules, 2017 and follow up need to be done with the suppliers to furnish the details relating to outward supplies in their outward supplies returns in case the supplies are not reflected in the GSTR-2B statement.

GST Articles

FY 2021-22 Ending Activities in GST

Dated 26-03-2022

- **Ineligible ITC:** It is to be ensured that ineligible ITC on supplies received during FY are reported in GSTR-3B of each month. In case the same is not reported during the FY then it can be reported in the return for the month of March 2022.
- **Identify supplies from Cancelled GSTIN:** It is to be ensured that the Input Tax Credit has not been taken on invoices from the suppliers whose GST registration has been cancelled or suspended for any reason during the FY 2021-22.
- **Ensure that suppliers are filing returns and making payment of taxes:** It is to be ensured that the suppliers are filing their outward supplies returns in Form GSTR-1 by including those supplies on which the recipient has availed ITC and also the supplier is making the payment of taxes on such outward supplies through Form GSTR-3B to avoid reversal of ITC along with interest at a later stage.
- **Identify supplies of capital assets on which ITC has been availed:** It is to be ensured that the Company has reversed ITC on supply of capital assets on which ITC had been availed on their purchase.
- **Ensure that ITC relating to Input Service Distributor is distributed in same month:** It is to be ensured that the input tax credit available for distribution in a month shall be distributed by Input Service Distributor in the same month.

4. GST Compliance Requirements for Reconciliations

- **Reconciliation of GSTR-1 and GSTR-3B:** Reconciliation of outward supplies in GSTR-1 and GSTR-3B need to be done and if there is any excess outward supply is shown in GSTR-1, then identify it and pay tax with interest @18% as soon as possible.
- **Reconciliation of E-way Bill generated with GSTR-1:** It is important to have a reconciliation between the amounts of E-way generated during the year versus the amount of outward supply shown in GSTR-1. There can be instances where outward supply as per E-Way Bill is more than outward supply as per GSTR-1. That need to be checked with sale invoices and tax need to be paid, if required and similarly, if outward supply as per E-Way Bill is less than outward supply as per GSTR-1, that need to be reconciled.

GST Articles

FY 2021-22 Ending Activities in GST

Dated 26-03-2022

- **Reconciliation of outward supply as per GSTR 1 or GSTR-3B with balance sheet:** This is an important step it would come handy while doing the income tax and GST audits and annual returns.
- **Reconciliation of ITC ledgers:** It is advisable to reconcile the GSTR-1 & 3B, cash ledger and credit ledger as per GSTN portal with the books of accounts. Tax wise Credit, cash ledger need to be matched with the respective ledgers as per books of accounts.

5. Other GST Compliance Requirements

- **Reverse Charge Liability:** It is to be ensured that the liability is being paid in respect of all input supplies notified for reverse charge and all the amendments have been taken care of. Check if the tax paid under RCM matches with ITC eligible under RCM.
- **Opting for Composition Scheme:** As per rule 3(3) of CGST Rules, any registered person who opts to pay tax under section 10 shall electronically file an intimation in FORM GST CMP-02, on the common portal, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised. Therefore, it is to be ensured that such person opting to pay tax under Composition scheme shall file Form GST CMP-02 before the commencement of financial year.
- **Opting out of Composition Scheme:** As per rule 6(2) of Composition Rules, if the person ceases to satisfy any of the conditions mentioned in section 10 or these rules, shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in FORM GST CMP-04 within seven days of occurrence of such event. This need to be taken care off, if the composition dealer has ceases to satisfy the conditions of composition scheme during any part of the financial year or at the beginning of financial year.
- **Opting for Quarterly Return Monthly Payment Scheme:** Though QRMP Scheme has been introduced beginning from 1st January 2021, still there are following parameters which need to be taken care off at the beginning of the new FY.

GST Articles

FY 2021-22 Ending Activities in GST

Dated 26-03-2022

- **Taxpayer wants to opt-out of QRMP scheme and want to become monthly filer:** Such taxpayers may change their filing frequency from quarterly to monthly from 1st February, 2022 to 30th April, 2022.
- **Taxpayer has been assigned quarterly frequency by system even when the aggregate turnover on PAN is greater than Rs. 5 crore:** Such taxpayers are advised to opt-out of scheme for quarter Apr-Jun'22 by 30th April 2022.
- **GST on Advance Receipts:** It is to ensure that GST has been paid on advances received from customers as on 31.03.2022.
- **Refund for FY 2019-20:** The last date to apply for a refund of GST related to FY 2019-20 is 31.03.2022. Ensure to timely make the compliances, if applicable.
- **Renewal of Letter of Undertaking:** Renewal application of LUT need to be filed online to have smooth export of goods/ services without payment of tax.
- **Job Work:** Ensure that the inputs sent out for job work activity have been received back within one year from the date of being sent out and three years in case of capital goods sent for job work. If not received back, the same will be treated as supply for GST payments and would entail interest outgo of 24%.
- **Updations in GST Registration Certificate:** Top 5 commodities and/ or services need to be updated on GST Registration Certificate system to ensure to accommodate/ add any new line of business within the year. Similarly, any updation or amendment with respect to address or constitution of business need to be ensured to be matching with the actual scenarios.
- **Reconciliation of GST TDS/ TCS credit:** It is to be ensured that the TDS/ TCS credit reflecting on the GST portal shall be reconciled with the TDS/ TCS balances appearing in the Books of Accounts.
- **Physical Stock Measure:** The physical stock needs to be reconciled with the stock according to the books of account. This would be fruitful in the case of Income Tax as well as GST audit. In case of any discrepancies, appropriate ITC reversals on goods lost/ stolen/ destroyed/ given free of cost should be considered.

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