



2023

# THE GST BULLETIN

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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](http://www.cgalegal.co.in)

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## GST Compliance Calendar - April 2023

Date	Types of Return	Period	Types of Taxpayer
10-04-2023	GSTR-7	March 2023	TDS Deductor
10-04-2023	GSTR-8	March 2023	E-Commerce Operator
11-04-2023	GSTR-1	March 2023	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-04-2023	GSTR-1	January-March-2023	Turnover up to INR 5 Crores and under QRMP Scheme
13-04-2023	GSTR-6	March 2023	ISD
13-04-2023	GSTR-5	March 2023	Non Resident Taxable Person
18-04-2023	CMP-08	January-March-2023	Composition Dealer
20-04-2023	GSTR-3B	March 2023	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
20-04-2023	GSTR-5A	March 2023	OIDAR
22-04-2023	GSTR-3B	January-March-2023	Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for *Category A States
24-04-2023	GSTR -3B	January-March-2023	Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for **Category B States
25-04-2023	ITC - 04	October 2022-March 2023	Registered person sending goods for Job work whose aggregate turnover during the immediately preceding financial year exceeds 5 Cr
25-04-2023	ITC - 04	April 2022-March 2023	Registered person sending goods for Job work whose aggregate turnover during the immediately preceding financial year does not exceed 5 Cr
30-04-2023	GSTR-4	FY 2022-23	Yearly Return Composition Taxable Person
30-04-2023	Opting in / out of QRMP Scheme	April – June 2023	Registered person having aggregate turnover upto Rs 5 crores

## GST Compliance Calendar - April 2023

**Note: 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 Notification

Ntf. No.	Summary of Notifications
<p><b>02/2023-CT</b>  <b>Dated</b>  <b>31-03-2023</b></p>	<p><b>Seeks to provide the waiver of late fee on furnishing of GSTR-4</b></p> <p>The amount of late fee payable under section 47 of the said Act shall stand waived which is in excess of 250 rupees and shall stand fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who fail to furnish the return in FORM GSTR-4 for the quarters from July, 2017 to March 2019 or for the Financial years from 2019-20 to 2021-22 by the due date but furnish the said return between the period from the 01-April-2023 to 30-June-2023.</p>
<p><b>03/2023-CT</b>  <b>Dated</b>  <b>31-03-2023</b></p>	<p><b>Seeks to provide the procedure in respect of revocation of cancellation of registration</b></p> <p>A registered person whose registration has been cancelled on or before the 31st day of December, 2023 on account of non-furnishing of returns for a financial year beyond three months from the due date of furnishing the said return in case of Composition taxpayer and for a continuous period of six months in case of normal taxpayer but has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of CGST Act, 2017 shall follow the procedure as provided below:</p> <ol style="list-style-type: none"> <li>a) the registered person may apply for revocation of cancellation of such registration upto the 30th day of June, 2023;</li> <li>b) the application for revocation shall be filed only after furnishing the returns due upto the effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the such returns;</li> <li>c) no further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.</li> </ol> <p>Explanation: For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 of the CGST Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section (1) of section 30 of the said Act.</p>

## GST Updates – CBIC Notification

Ntf. No.	Summary of Notifications
<p><b>04/2023-CT</b>  <b>Dated</b>  <b>31-03-2023</b></p>	<p><b>Seeks to amend CGST Rules, 2017</b></p> <ul style="list-style-type: none"> <li>• Sub-rule (4A) to Rule 8 of CGST Rules, 2017, which provided for the provisions relating to <b>Biometric based Aadhaar Authentication</b>, has been amended to provide that the date of submission of the application for registration in case where an applicant has opted for Aadhaar Authentication and the provisions relating to Bio-metric based Aadhaar Authentication has been now provided in the Proviso to this sub-rule.</li> <li>• As per new Sub-rule (4A) to Rule 8 of CGST Rules, 2017, the date of submission of the application in case where an applicant has opted for Aadhaar Authentication, other than a person notified under sub-section (6D) of section 25, shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier.</li> <li>• Proviso has been inserted in sub-rule (4A) to Rule 8 of CGST Rules, 2017 which now provides for the provisions relating to Bio-metric based Aadhaar Authentication.</li> <li>• Consequently, sub-rule (4B) to Rule 8 of CGST Rules, 2017 has been amended to provide that the provisions relating to Bio-metric based Aadhaar Authentication as contained in the proviso to Sub-rule (4A) to Rule 8 of CGST Rules, 2017 shall not be applicable to State or UTs as may be notified by Central Government.</li> </ul> <p>These amendments shall be deemed to have come into force from the 26th day of December 2023.</p>
<p><b>05/2023-CT</b>  <b>Dated</b>  <b>31-03-2023</b></p>	<p><b>Seeks to amend Notification No. 27/2023-Central Tax, dated the 26th December, 2023</b></p> <p>Notification No. 27/2023-CT provided that the provisions relating to Biometric based Aadhaar Authentication shall be applicable only for the state of Gujarat as per the provisions of Sub-Rule (4A) of Rule 8 of CGST Act, 2017.</p> <p>As the provisions of Bio-metric based aadhaar authentication is now contained in proviso to of Sub-Rule (4A) of Rule 8 of CGST Act, 2017, thus, Notification No. 27/2023-CT has been amended consequently to provide the legal backing for the same.</p> <p>This amendment shall be deemed to have come into force from the 26th day of December, 2023.</p>

## GST Updates – CBIC Notification

Ntf. No.	Summary of Notifications
<p><b>06/2023-CT</b>  <b>Dated</b>  <b>31-03-2023</b></p>	<p><b>Special procedure withdrawal of Assessment for the registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023</b></p> <p>The registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of section 62 of the CGST Act, the said assessment order shall be deemed to have been withdrawn, if such registered persons follow the special procedures as specified below, namely,-</p> <ol style="list-style-type: none"> <li>i. the registered persons shall furnish the said return on or before the 30th day of June 2023;</li> <li>ii. the return shall be accompanied by payment of interest due under sub-section (1) of section 50 of the said Act and the late fee payable under section 47 of the said Act,</li> </ol> <p>irrespective of whether or not an appeal had been filed against such assessment order under section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.</p>
<p><b>07/2023-CT</b>  <b>Dated</b>  <b>31-03-2023</b></p>	<p><b>Seeks to provide the waiver of late fee on furnishing of GSTR-9 and revision of late fee from FY 2023-23 onwards</b></p> <p>The amount of late fee, referred to in section 47 of the CGST Act, has been waived which is in excess of twenty thousand rupees [CGST + SGST] for the registered persons who fail to furnish the annual return in FORM GSTR-9 by the due date for FY 2017-18 to FY 2021-22 but furnish the said return between the period from the 01-April-2023 to 30-June-2023.</p> <p>Also, the late fees on furnishing of GSTR-9 has been revised from FY 2023-23 onwards which is as follows:</p>



## GST Updates – CBIC Notification

Ntf. No.	Summary of Notifications								
	<table border="1"> <thead> <tr> <th data-bbox="379 401 762 472">Aggregate Annual Turnover</th> <th data-bbox="768 401 1305 472">Late fees</th> </tr> </thead> <tbody> <tr> <td data-bbox="379 480 762 551">Upto Rs. 5 Crore</td> <td data-bbox="768 480 1305 551">Rs. 50 per day [CGST + SGST] subject to maximum of 0.04% of Turnover</td> </tr> <tr> <td data-bbox="379 559 762 629">Above Rs. 5 Crore and upto Rs 20 Crore</td> <td data-bbox="768 559 1305 629">Rs. 100 per day [CGST + SGST] subject to maximum of 0.04% of Turnover</td> </tr> <tr> <td data-bbox="379 638 762 708">Above Rs. 20 Crore</td> <td data-bbox="768 638 1305 708">Rs. 200 per day subject to maximum of 0.25% of Turnover</td> </tr> </tbody> </table>	Aggregate Annual Turnover	Late fees	Upto Rs. 5 Crore	Rs. 50 per day [CGST + SGST] subject to maximum of 0.04% of Turnover	Above Rs. 5 Crore and upto Rs 20 Crore	Rs. 100 per day [CGST + SGST] subject to maximum of 0.04% of Turnover	Above Rs. 20 Crore	Rs. 200 per day subject to maximum of 0.25% of Turnover
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Above Rs. 20 Crore	Rs. 200 per day subject to maximum of 0.25% of Turnover								
<b>08/2023-CT</b> <b>Dated</b> <b>31-03-2023</b>	<p><b>Seeks to provide the waiver of late fee on furnishing of GSTR-10</b></p> <p>The amount of late fee, referred to in section 47 of the CGST Act, has been waived which is in excess of one thousand rupees [CGST + SGST] for the registered persons who fail to furnish the final return in FORM GSTR-10 by the due date but furnish the said return between the period from the 01-April-2023 to 30-June-2023.</p>								
<b>09/2023-CT</b> <b>Dated</b> <b>31-03-2023</b>	<p><b>Seeks to provide the extension of time limit for issuance of Order under Section 73</b></p> <p>Extension of the time limit specified under sub-section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the CGST Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilised, relating to the period as specified below, namely:–</p> <ol style="list-style-type: none"> <li>i. for the financial year 2017-18, up to the 31st day of December, 2023;</li> <li>ii. for the financial year 2018-19, up to the 31st day of March, 2024;</li> <li>iii. for the financial year 2019-20, up to the 30th day of June, 2024.</li> </ol>								
<b>01/2023 -</b> <b>Compensation</b> <b>Cess</b> <b>Dated</b> <b>31-03-2023</b>	<p><b>Seeks to provide the applicability of amendments made through Finance Act, 2023 in Schedule to Goods and Services Tax (Compensation to States) Act, 2017</b></p> <p>The Central Government hereby appoints the 1st day of April, 2023, as the date on which the provisions of section 163 of the Finance Act, 2023 shall come into force.</p>								

## GST News

**GST collection grows 13% to ₹1.60 lakh crore in March, second highest ever**

**Dated : 03-04-2023**

India's Goods and Services Tax (GST) collection rose 13 per cent to over ₹1.60 lakh crore in March, according to a statement by the finance ministry. This happened for the fourth time in the current financial year that the gross GST collection has crossed ₹1.5 lakh crore, marking the second-highest collection ever.

Read more at: <https://www.livemint.com/news/india/gst-collection-grows-13-to-rs-1-60-lakh-crore-in-march-second-highest-ever-11680346165803.html>

## GST – Judicial Precedents

### 1. Refunds

**Karnataka High Court declared Rule 89(4)(c) as ‘ultra-vires’ to the provisions of GST law and held ‘unconstitutional’**

**M/s. Tonbo Imaging India Pvt Ltd v. Union of India [Karnataka High Court]**

**Facts:** The Central Board of Indirect Taxes and Customs (“CBIC”) vide Notification No. 16/2020 Central Tax dated March 23, 2020 amended Rule 89(4)(c) of the CGST Rules, which restricted the refund of exports made through LUT to a maximum of 1.5 times the value of like goods domestically supplied by the same or, similarly placed supplier. The Respondent issued deficiency memos in regard to refund claims filed by the Petitioner on the ground that the Petitioner had not provided the value of like goods domestically supplied as required in terms of Rule 89(4)(c) of the CGST Rules. Thus, refund claims could not be considered.

**Held:** Noted that, on a combined reading of Section 54 of the CGST Act and Section 16 of the IGST Act, it can be said that intention of making exports zero-rated is to make the entire supply chain of exports tax-free. However, Rule 89(4)(c) restricts the refund in case of export made through the LUT model to 1.5 times the value of like goods domestically supplied, which is ultra vires in view of the well-settled principle of law that rules cannot override the parent legislation.

Rule 89(4)(c) of the CGST Rules is violative of Articles 14 and 19(1)(g) of the Constitution being restricting the quantum of refund of unutilized ITC in case of export made under LUT model. In contrast, in the case of refund sought under payment of the IGST model, there is no such limit.

Observed that, Rule 89(4)(c) of the CGST Rules contains words “like goods” and “similarly placed supplier,” which are not defined anywhere in the CGST Act or IGST Act or rules made thereunder.

Further observed that, in case where the domestic turnover is nil for a particular period or very less, the quantum of refund becomes nil or negligible where the exports were made under LUT model, thereby clearly cutting down the principle of zero-rating as specified in Section 16 of the IGST Act, 2017 which would mean that the taxes on exports do not get refunded adequately.

Rule 89(4)(c) is ultra vires the provision of the IGST Act and CGST Act, including being violative of Articles 14 and 19 of the Constitution and the provision is arbitrary, unreasonable and vague

## GST – Judicial Precedents

### 2. Reverse Charge

**Whether an LLP can be considered as Body corporate under the provisions of the GST Act, 2017 or not?**

**M/s. AS&D Enterprise LLP Office Space [AAR, Haryana]**

**Facts:** The applicant is Limited Liability Partnership Company registered under the Goods and Services Tax Act, 2017. The applicant is engaged in the business of providing security services to various business entities situated all over India. Applicant sought advance rulings whether services (Security services) provided by the applicant LLP are covered by entry 14 of Notification No. 13/2017-CT(Rate) dated 28.06.2017 and liable for tax under reverse charge mechanism or Not?

**Held:** An LLP is an Body Corporate for the purpose of Companies Act, 2013 and the same would apply to the term body corporate for the purpose of the notification no. 13/2017-CGST(Rate) dated 28.06.2017 and as amended on 31.12.2018 vide notification no. 29/2018. In consequence the Reverse Charge Mechanism would not be applicable in the present case. Moreover, the legislative intention behind the application of RCM is on those supplies in which the Government/executive do not have control over the supplier or who are working in the unorganized sector. So, the RCM is made applicable for any person other than body corporate by the said notification.

Thus, an LLP is a body corporate and so excluded from the entry no. 14 of the notification no. 13/2017 dated 28.06.2017 and notification no. 29/2018 dated 31.12.2018. The applicant is required to charge applicable tax on the security services supplied by him as per section 9(1) of the CGST/HGST Act, 2017 read with the relevant provision of IGST Act, 2017.

## GST – Judicial Precedents

### 3. Classification

#### Classification of the supply of services by way of leasing of pre-owned vehicles

##### **M/s. Dream Road Technologies Pvt. Ltd. [AAR, Haryana]**

**Facts:** The Applicant is engaged in providing pre-owned vehicles obtained from different modes of supply on operating leases to its customers. Thus, according to the Applicant leasing of second-hand motor vehicles would be taxed by virtue of Serial no. 17(viia) of Notification No. 11/2017-Central Tax (Rate) dated 28th June 2017 read with Notification No. 08/2018-Central Tax (Rate), dated 25th January 2018.

**Held:** The leasing of the pre-owned vehicle is a taxable event and the rate of tax is to be determined in accordance with serial no. 17 (VI) of notification no. 11/2017-CT(R) dated 28.06.2017 as amended which states that the tax is to be charged at 'same rate of central tax as applicable on supply of like goods involving transfer of title in goods.' And the applicable compensation cess is also to be determined in accordance with notification no. 1/2017-compensation cess (Rate) dated 28.06.2017. Meaning thereby that the tax rate on the leasing of the pre-owned vehicle is to be determined as on like goods.

The supply of leasing of the pre-owned vehicles is not covered under the notification no. 8/2018 -Central Tax (Rate) dated 25th January 2018 as this is related to the sale of old and used vehicles. This notification needs to be read with rule 35 of the CGST Rules, 2017. It shall not apply in the case of motor vehicles given on lease. In the case of transfer of right to use any goods i.e. leasing, the applicable rate of tax is same as of new vehicles under the GST Act and compensation cess also as on supply of similar goods. The authority is of opinion that the supply of leasing of pre-owned vehicles cannot be treated as leasing or renting of goods like computers, furnitures, refrigerators or air conditioners etc. And the tax rates of new vehicles are to be applicable in the present mailer as per the specification of the vehicles i.e. engine capacity and size of the vehicles and mode of fuel etc. under chapter 87.

## GST – Judicial Precedents

### 4. Classification

#### Sugarcane juice not an agricultural produce and attracts 12 percent tax

##### **M/s. Gobind Sugar Mills Limited [AAR, Uttar Pradesh]**

**Held:** Sugarcane juice cannot be classified as Agricultural produce because agricultural produce is defined under explanation (vii) under para 4 of the Notification No. 11/2017 Central Tax (Rate) dated 28.6.2017 as “agricultural produce’ means any produce out of cultivation of plants and rearing all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually one by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.”

In the present case, sugarcane juice is produced by way of crushing of sugarcane and hence not produced by farmer. Also process changes its form and constitution alongwith changes are of such nature that if it is to be attain the secondary market for use and become raw material for production of sugar, molasses etc. - Since all the three Conditions of agricultural produce is not fulfilled by sugarcane juice and hence it is not considered to be agricultural produce.

Sugarcane is usually a type of grass/plant, sugarcane is not the result of flowering plant nor does it develop through seeding. So sugarcane can not be considered as fruit. Sugarcane fiber and stalks can not be eaten or digested, so it does not qualify as a vegetable either. In GST Tariff, goods under chapter 20 is preparation of vegetables, fruits, nuts or other parts of plants Sugarcane as neither fruit nor vegetable nor nuts but it is covered under other parts of plants.

The Tariff item 2009 contains specific description of Fruit and Vegetable Juices Sugarcane is neither fruit nor vegetable nor nuts but it is covered under other parts of plants as such Rule 3(a) of General Rules for the Interpretation of Import Tariff will apply and the same merits classification under HSN 20098990 - Hence sugarcane juice is classified under chapter 20 and tariff item 20098990 which falls in Notification No. 1/2017 Central Tax (Rate) dated 28-06-2017 covered in schedule 2, Sr. No. 41 and taxable at a rate of 6% CGST & 6% SGST or 12 % IGST.



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