

# THE GST BULLETIN

---

**YOUR INDIRECT TAX KNOWLEDGE PARTNER**

**July 2022 Issue-II**  
**Date of Issue – 28<sup>th</sup> July 2022**

## 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)

## In this Issue.....

S. No.	Particulars
1.	<b>GST Compliance Calendar – August 2022</b>
2.	<b>GST Updates</b>
	❖ GST Notification
	❖ CBIC Circular
	❖ GST Technical Update
	❖ GST Articles
3.	<b>CGA Legal GST Video</b>
4.	<b>CGA Legal Live Meet</b>
5.	<b>GST Judicial Precedent</b>
	❖ Whether interest levied on loan granted by the Bank on credit card is liable to GST? [Ramesh Kumar Patodia versus Citi Bank NA - Calcutta High Court]
	❖ Whether GST liability on sale of vehicle, spares, labour can be done by utilizing the input tax credit on purchase of demo vehicle, other expenses like repairs & maintenance, insurance etc.? [Toplink Motorcar Private Limited - AAR West Bengal]
	❖ Supreme Court directed to open common portal for filing forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months. [UOI versus Filco Trade Centre Pvt Ltd - Supreme Court]

## GST Compliance Calendar - August 2022

Statutory Due Date	Types of Return	Period	Types of Taxpayer
10-08-2022	GSTR-7	July 2022	TDS Deductor
10-08-2022	GSTR- 8	July 2022	E-Commerce Operator
11-08-2022	GSTR-1	July 2022	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-08-2022	Details of Outward Supplies through Invoice Furnishing Facility [IFF]	July 2022	Taxpayers who are under QRMP Scheme
13-08-2022	GSTR-6	July 2022	ISD
20-08-2022	GSTR-3B	July 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
20-08-2022	GSTR-5	July 2022	Non Resident Taxable Person
20-08-2022	GSTR-5A	July 2022	OIDAR
25-08-2022	GST PMT-06	July 2022	Taxpayer who has opted for QRMP Scheme has to deposit tax using form GST PMT-06 by the 25th of the following month, for the first and second months of the quarter.

## GST Update – GST Notifications

Notification No.	Date	Summary
03/2022-CT(R)	13-07-2022	<p data-bbox="544 395 1329 462">Seeks to amend CGST Rate on various services effective from 18.07.2022</p> <p data-bbox="544 505 843 540"><u>Construction Services:</u></p> <ul data-bbox="544 586 1329 1713" style="list-style-type: none"> <li data-bbox="544 586 1329 762">• Entries No. (iii), (iv), (v), (va), (vi) and (ix) of Serial No. 3 of Construction services providing rate of CGST @ 6% has been omitted and these services shall now be taxed @ 9% [i.e. 18% CGST + SGST].</li> <li data-bbox="544 779 1329 1713">• Following Construction services for Entry No. (vii) and (x) of Serial No. 3 providing rate of tax @ 2.5% CGST shall now be taxable @ 6% [i.e. 12% CGST + SGST]:               <ul style="list-style-type: none"> <li data-bbox="601 919 1329 1239">➤ Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory or a local authority.</li> <li data-bbox="601 1255 1329 1574">➤ Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory or a local authority.</li> </ul> </li> <li data-bbox="544 1591 1329 1713">• Consequential amendment has been made in Entry No. (xii) of Serial No. 3 of Construction services providing rate of tax @ 9% [i.e. 18% CGST + SGST].</li> </ul>

## GST Update – GST Notifications

Notification No.	Date	Summary
------------------	------	---------

### Hotel Accommodation Services:

The services by way of supply of hotel accommodation' having value of supply of a unit of accommodation less than or equal to seven thousand five hundred rupees per unit per day or equivalent shall be taxable @ 12% under GST. Earlier by way of this entry, services by way of hotel accommodation were taxable @ 12% when the value of services of a unit of accommodation is more than 1000 but less than 7500. Thus Exemption of accommodation services in case unit value is till INR 1000 per day stands withdrawn.

### Transport of Passenger Services:

.Services by way of transport of passengers, with or without accompanied belongings, by ropeways shall be taxable @ 5% if the credit of input tax charged on goods used in supplying the service has not been taken. Otherwise it shall be taxable @ 18% if ITC taken

### Transport of Goods Services:

- Changes have been made in Goods Transport Agency Services and GTA can exercise the option to itself pay the tax or not pay the tax itself on yearly basis. GTA can also opt for any rate of tax between 5% or 12% to pay the tax itself and such option need to be exercised at on or before the 15th March of the preceding Financial Year. Further

## GST Update – GST Notifications

Notification No.	Date	Summary
------------------	------	---------

Further, such option for the Financial Year 2022-2023 need to exercised on or before the 16th August, 2022. The option need to exercised by filing of Declaration in Annexure V. Further once the option to pay tax under Forward charge is exercised, such fact need to mentioned in Invoice as per the format provided in Annexure III

- Transport of goods by ropeway shall be taxable @ 5% if the credit of input tax charged on goods used in supplying the service has not been taken. Otherwise it shall be taxable @ 18% if ITC taken.

### Rental services of transport vehicles with operators

Renting of goods carriage where the cost of fuel is included in the consideration charged from the service recipient shall be taxable @ 12%.

### Supporting services in transport

Supporting services in transport shall be taxable @ 18%. However, this shall not include not include goods transport service involving Goods Transport Agency (GTA) service, which falls under Heading 9965.

### Financial and Related Services

Following entries providing rate of tax @ 12% shall be omitted and these services shall be taxed at 18%:

- Services provided by a foreman of a chit fund in relation to chit.

## GST Update – GST Notifications

Notification No.	Date	Summary
------------------	------	---------

### Manufacturing services on physical inputs (goods) owned by others

Following services taxable @ 5% has been omitted and same shall be taxable @ 18%

- Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975;
- Manufacture of leather goods or foot wear falling under Chapter 42 or 64 in the First Schedule to the Customs Tariff Act, 1975 respectively;
- Manufacture of clay bricks falling under tariff item 69010010 in the First Schedule to the Customs Tariff Act, 1975.

### Healthcare Services

Services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services shall be taxable @ 5% if the credit of input tax charged on goods and services used in supplying the service has not been taken.

### Services of disposal of biomedical waste

Services by way of treatment or disposal of biomedical waste or the processes incidental thereto by a common bio-medical waste treatment facility to a clinical establishment shall be taxable @ 12%.



## GST Update – GST Notifications

Notification No.	Date	Summary
04/2022-CT(R)	13-07-2022	<p data-bbox="539 395 1326 472">Seeks to amend exemptions on various services effective from 18.07.2022</p> <ul style="list-style-type: none"> <li data-bbox="539 534 1326 710">• Exemption on by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory has been withdrawn.</li> <li data-bbox="539 772 1326 948">• Amendment have been made in the exemption on the services by way of renting of residential dwelling for used as a residence. Such services shall now be taxable if provided to a registered person.</li> <li data-bbox="539 1011 1326 1280">• Exemption on services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent has been withdrawn.</li> <li data-bbox="539 1342 1326 1663">• Exemption on transport of passengers, with or without accompanied belongings, by embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal shall be available in case of air services in economy class only.</li> <li data-bbox="539 1725 1326 1846">• Exemption on services by way of transportation by rail or a vessel from one place in India to another of railway equipments or materials has been withdrawn.</li> </ul>

## GST Update – GST Notifications

Notification No.	Date	Summary
		<ul style="list-style-type: none"> <li>• Exemption on services provided by a goods transport agency, by way of transport in a goods carriage of goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees and goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty has been withdrawn.</li> <li>• Exemption on services by way of storage or warehousing of spices, copra, sugar-cane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea has been withdrawn.</li> <li>• Exemption has been provided on Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).</li> <li>• Exemption on following services has been withdrawn:               <ul style="list-style-type: none"> <li>➤ Services by the Reserve Bank of India;</li> <li>➤ the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999;</li> <li>➤ Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market;</li> <li>➤ Food Safety and Standards Authority of India (FSSAI) to Food Business Operators;</li> <li>➤ Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax;</li> </ul> </li> </ul>

## GST Update – GST Notifications

Notification No.	Date	Summary
		<ul style="list-style-type: none"> <li>• Exemption has been provided on services of Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India.</li> <li>• Exemption on services by way of fumigation in a warehouse of agricultural produce has been withdrawn.</li> <li>• Exemption on healthcare services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neonatal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services has been withdrawn.</li> <li>• Exemption on services provided by operators of the common bio- medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio- medical waste or the processes incidental thereto has been withdrawn.</li> <li>• Revamping of exemption on Services by way of training or coaching in (a) recreational activities relating to arts or culture, by an individual, or (b) sports by charitable entities registered under Section 12AA or 12AB of the Income Tax Act..</li> <li>• Exemption on services by way of right to admission to the events organized under FIFA U-17 Women’s World Cup 2020 has been extended to whenever it shall be scheduled.</li> <li>• Exemption on services of slaughtering of animals has been withdrawn.</li> </ul>

## GST Update – GST Notifications

Notification No.	Date	Summary
05/2022-CT(R)	13-07-2022	<ul style="list-style-type: none"> <li>• Exemption on provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation has been withdrawn.</li> </ul> <p>Seeks to amend categories of services on which tax shall be paid under reverse charge</p> <ul style="list-style-type: none"> <li>• Amendment in the service of Goods Transport Agency has been made which provides that the reverse charge on these services shall not be applicable when:               <ul style="list-style-type: none"> <li>➤ the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and</li> <li>➤ the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him.</li> </ul> </li> <li>• Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority were not under reverse charge if provided to Business Entity. Such services shall now be taxable under reverse charge if provided to business Entity.</li> <li>• Service by way of renting of residential dwelling to a registered person shall now be taxed under reverse charge.</li> </ul>
06/2022-CT(R)	13-07-2022	<p><b>Seeks to amend Rate of tax on various goods</b></p> <p>Changes have been made in the rate of tax on various goods in line with the recommendations of the 47th GST Council Meeting.</p>

## GST Update – GST Notifications

Notification No.	Date	Summary
07/2022-CT(R)	01-07-2022	<p><b>Seeks to amend exemptions of various goods</b></p> <p>Changes have been made in the exemptions relating to various goods in line with the recommendations of the 47th GST Council Meeting.</p>
08/2022-CT(R)	13-07-2022	<p><b>Concessional GST rate rationalized from 5% to 12% for goods supplied for Petroleum/ Coal bed methane operations</b></p> <p>The CBIC vide Notification No. 3/2017- Central Tax (Rate) dated 28-June-2017 notified 2.5% concessional CGST rate for supplies for exploration and production w.r.t Petroleum/ Coal bed methane operations w.e.f. July 01, 2017.</p> <p>However, the GST Council's 47th meeting held on June 28-29, 2022 has recommended to rationalize exemption in form of GST concessional rate in the case of supplies made for Petroleum/Coal bed methane operations from 5% to 12% w.e.f. July 18, 2022. Thus, by way of this Notification, exemption in form of GST concessional rate in case of supplies made for Petroleum/Coal bed methane operations has been changes to 12% w.e.f. July 18, 2022</p>
09/2022-CT(R)	13-07-2022	<p><b>Refund of accumulated unutilized ITC in case of inverted duty supply on supply of edible oils and coal has been curtailed</b></p> <p>CBIC vide Notification No. 5/2017- Central Tax (Rate) dated 28.06.2017 notified that no refund of unutilised input tax credit shall be allowed under Section 54(3) of the Central Goods and Service Tax Act, 2017 on supply of certain goods specified therein.</p>

## GST Update – GST Notifications

Notification No.	Date	Summary
		<p>Further, the GST Council's 47th meeting held on June 28-29, 2022 has recommended to add edible oils and coal as goods against which no refund of accumulated unutilised ITC shall be allowed under Section 54(3) of the CGST Act in order to remove inverted duty structure w.e.f. July 18, 2022. Thus, by way of this Notification, edible oils and coal has been added to Notification No. 5/2017- Central Tax (Rate) dated 28.06.2017.</p>
10/2022-CT(R)	13-07-2022	<p><b>Seeks to amend Notification on concessional rate on intra state supply of bricks conditional to not availing the ITC</b> CBIC vide Notification No. 02/2022- Central Tax (Rate) dated 31.03.2022, provided concessional rate on Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks at 3% subject to non availment of ITC. Such entry has been amended to provide the concessional rate on Fly ash bricks fly ash aggregate and Fly ash blocks only w.e.f. 18.07.2022.</p>
11/2022-CT(R)	13-07-2022	<p><b>Seeks to rescinds Notification No. 45/2017-CT(R) dated 14-11-2017 providing concessional GST rate of 2.5% on scientific and technical equipments supplied to public funded research institutions.</b> Notification No. 45/2017-CT(R) dated 14-11-2017 providing concessional GST rate of 2.5% on scientific and technical equipments supplied to public funded research institutions has been rescinded.</p>
15/2022-CT	13-07-2022	<p><b>Seeks to provide the compulsory registration in case of supply of Fly ash bricks irrespective of fly ash content</b> Notification No. 10/2019-Central Tax dated March 7, 2019 provided compulsory registration a person engaged in supply of Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash Blocks irrespective of the threshold limit.</p>

## GST Update – GST Notifications

Notification No.	Date	Summary
16/2022-CT	13-07-2022	<p>This has now been amended to provide Fly ash bricks; Fly ash aggregates; Fly ash blocks i.e. a supplier of Fly ash bricks; Fly ash aggregates; Fly ash blocks shall be required to get compulsorily registered irrespective of turnover w.e.f 18.07.2022</p> <p><b>Seeks to provide that manufacturer of Fly ash bricks shall not be eligible for composition scheme irrespective of fly ash content</b></p> <p>Notification No. 14/2019 – Central Tax dated March 7, 2019 provided that the manufacturer of Fly ash bricks or fly ash aggregate with 90 percent. or more fly ash content; Fly ash Blocks shall not be eligible for composition scheme. This has now been amended to provide Fly ash bricks; Fly ash aggregates; Fly ash blocks i.e. a supplier of Fly ash bricks; Fly ash aggregates; Fly ash blocks shall not be eligible for composition scheme w.e.f 18.07.2022.</p>

## GST Update – GST Notifications

Notification No.	Date	Summary
14/2022-CT	05-07-2022	<p data-bbox="548 437 925 468"><b>CGST (Amendment) Rules</b></p> <p data-bbox="548 520 1322 696">This Notification makes following amendments in CGST Rules, 2017 which shall come into force on the date of their publication in the Official Gazette unless otherwise stated:</p> <ul data-bbox="548 741 1322 1839" style="list-style-type: none"> <li data-bbox="548 741 1322 1156">• <b>Revocation of suspension:</b> Rule 21 A of the CGST Rules provides for suspension of registration of the taxpayer in certain circumstances, one of which being, failure to file returns. Now, by way of introducing second proviso under sub-rule (4) of Rule 21A, it has been provided that upon filing of all returns by the taxpayer, the suspension shall be deemed to be revoked if the registration has not been already cancelled.</li> <li data-bbox="548 1203 1322 1570">• <b>Duty credit scrips:</b> Explanation under Rule 43, which is relevant for both Rule 42 and 43, lists out certain cases, which shall not be treated as exempt supply for the purposes of proportionate reversal of common ITC. To such list, Sale of Duty Credit Scrips has been added. So, sale of such scrips would not be treated as exempt supply and hence there would be no requirement for reveal of any common ITC.</li> <li data-bbox="548 1618 1322 1839">• <b>Declaration on the invoice:</b> Certain categories of taxpayers are exempted from the provisions relating to E-invoicing. Clause (s) has been added to Rule 46, requiring such persons to make a declaration in this regard in their invoices.</li> </ul>



## GST Update – GST Notifications

Notification No.	Date	Summary
		<ul style="list-style-type: none"> <li>• <b>Re-credit on payment of the amount debited for erroneous refunds:</b> Sub-rule (4B) has been introduced in Rule 86. As per this sub-rule, if any erroneously sanctioned refund [export refund, inverted rate structure refund or refund of IGST paid on export, sanctioned in contravention of Rule 96 (10)] is paid back in cash, equivalent amount would be credited in the Electronic Credit Ledger, as at the time of claiming the refund, the said amount would have been debited from the Electronic Credit Ledger.</li> <li>• <b>UPI and IMPS allowed as modes of payment:</b> UPI and IMPS have been added as options for making deposits into Electronic Cash Ledger, by amending Rule 87 (3).</li> <li>• <b>Transfer of balance from cash ledger:</b> Consequent to notifying section 49 (10), sub-rule (14) has been introduced in Rule 87, prescribing the procedures for transfer of balance in Electronic Cash Ledger from one registration to another registration of the same entity.</li> <li>• <b>Levy of interest on net cash liability and ITC incorrectly utilized – Manner of calculation:</b> A new Rule 88B has been introduced with retrospective effect from 01.07.2017, prescribing the manner of calculation of interest under Section 50.</li> </ul>

## GST Update – GST Notifications

Notification No.	Date	Summary
		<ul style="list-style-type: none"> <li>• <b>Supplies made to SEZ unit/ SEZ developer to be endorsed by specified officer or authorized officer as per SEZ Act:</b> As per second proviso to Rule 89 (1), in case of refund of ITC against supplies made to SEZ unit/ SEZ developer, the “specified officer” of the SEZ zone shall certify the receipt of goods and services by SEZ unit / developer. Now, the term “specified officer” would also include “authorized officer” of the SEZ zone, who would be lower in rank than the “specified officer” and would be available in all SEZ.</li> <li>• <b>Refund of accumulated ITC on the export of electricity:</b> Though electricity is “goods”, it is intangible and some of the conditions applicable for export of goods cannot be applied to electricity and hence certain special provisions have made for export of electricity.</li> <li>• <b>Value of exports for claiming refund of accumulated ITC:</b> In sub-rule (4) of Rule 89 an Explanation has been added to the effect that the refund entitlement (refund of ITC on account of zero-rated supplies), shall be calculated with reference to the FOB value of exports only. The legality of this Explanation is in doubt. The valuation of export goods is to be made only as per Section 15 of the CGST Act and in case of CIF exports, the CIF value would be the value as per Section 15. It is doubtful as to how FOB value can be considered as the value for exports.</li> <li>• <b>Refund of accumulated credits due to inverted duty structure:</b> Amendment has been made in the formula for calculation of refund in case of inverted duty supplies in line with the Judgment of VKC Footwear vs UOI – Supreme Court.</li> </ul>

## GST Update – GST Notifications

Notification No.	Date	Summary
		<ul style="list-style-type: none"> <li>• <b>Refund of IGST paid on export of goods:</b> Clause (b) of sub-rule (1) of Rule 96 is being substituted with retrospective effect from 01.07.2017. As per this provision, when there is a mismatch between the details furnished in GSTR-1 and in the shipping bills, the date of rectification of such mismatch would be considered as the date of filing refund claim. This will impact the refund entitlement on the ground of time bar.</li> <li>• <b>Transfer of withheld refund claims of risky exporters to jurisdictional officer:</b> Clause (c) has been introduced in sub-rule (4) of Rule 96 whereby sanction of refund can be withheld by the department in case of “risky exporters”. Provisions are also made for transfer of the refund claim from the Customs Department to the jurisdictional GST authorities where any further verification is required. It has been provided that the date of such transmission shall be considered as the date of filing of the claim and this stipulation should only for computation the time limit for sanction.</li> <li>• <b>Changes relating to Forms:</b> Certain changes made relating to the forms GSTR-3B, GSTR 9 / GSTR 9C, GST PMT-06, GST PMT-07, GST PMT-09, GST RFD-01, GST RFD-10B</li> <li>• <b>New Form introduced:</b> New Form GST PMT-03A has been introduced as per Rule 86(4B) of CGST Rules, 2017 containing “Order for re-credit of the amount to electronic credit ledger”.</li> </ul>

## GST Update – CBIC Circulars

### **Withdrawal of Circular No. 106/25/2019-GST dated 29.06.2019**

### **Circular No. 176/08/2022-GST dated 06-07-2022**

Circular No. 106/25/2019-GST dated 29.06.2019 provided certain clarifications in relation to rule 95A, inserted in the Central Goods and Services Tax Rules, 2017 w.e.f. 01.07.2019, for refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange.

The said rule 95A has been omitted, retrospectively w.e.f. 01.07.2019, vide notification No. 14/2022-Central Tax, dated 05.07.2022. Accordingly, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017, hereby withdraws, ab-initio, Circular No 106/25/2019-GST dated 29th June, 2019.

## GST Update – CBIC Circulars

### **Manner of filing refund of unutilized ITC on account of export of electricity**

#### **Circular No. 175/07/2022-GST dated 06-07-2022**

The Board has received reference from the Ministry of Power regarding the problem being faced by power generating units in filing of refund of unutilised Input Tax Credit (ITC) on account of export of electricity. It has been represented that though electricity is classified as “goods” in GST, there is no requirement for filing of Shipping Bill/ Bill of Export in respect of export of electricity. However, the extant provisions under Rule 89 of CGST Rules, 2017 provided for requirement of furnishing the details of shipping bill/ bill of export in respect of such refund of unutilised ITC in respect of export of goods. Accordingly, a clause (ba) has been inserted in sub-rule (2) of rule 89 and a Statement 3B has been inserted in FORM GST RFD-01 of the CGST Rules, 2017 vide notification No. 14/2022-CT dated 5th July, 2022.

In the light of the above, the Board has clarified various issues including the filing of refund claim, the relevant date for filing of refund, processing of refund claim by proper officer etc.

The circular further added that “the proper officer shall calculate the admissible refund amount as per the formula provided under rule 89(4) and as per the clarification furnished above. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD05.”

## GST Update – CBIC Circulars

### Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A

#### Circular No. 174/06/2022-GST dated 06-07-2022

Difficulties were being faced by the taxpayers in taking re-credit of the amount in the electronic credit ledger in cases where any excess or erroneous refund sanctioned to them had been paid back by them either on their own or on being pointed by the tax officer. In order to resolve this issue, GSTN has recently developed a new functionality of FORM GST PMT-03A which allows proper officer to re-credit the amount in the electronic credit ledger of the taxpayer.

In respect of the following categories of refund sanctioned erroneously, re-credit of amount in the electronic credit ledger can be done through FORM GST PMT-03A, on deposit of such erroneous refund along with interest and penalty, wherever applicable, by the taxpayer:

- a) Refund of IGST obtained in contravention of sub-rule (10) of rule 96.
- b) Refund of unutilised ITC on account of export of goods/services without payment of tax.
- c) Refund of unutilised ITC on account of zero-rated supply of goods/services to SEZ developer/Unit without payment of tax.
- d) Refund of unutilised ITC due to inverted tax structure.

#### Procedure for re-credit of amount in electronic credit ledger

- The taxpayer shall deposit the amount of erroneous refund along with applicable interest and penalty, wherever applicable, through FORM GST DRC-03 by debit of amount from electronic cash ledger. While making the payment through FORM GST DRC-03, the taxpayer shall clearly mention the reason for making payment in the text box as the deposit of erroneous refund of unutilised ITC, or the deposit of erroneous refund of IGST obtained in contravention of sub-rule (10) of rule 96 of the CGST Rules.

## GST Update – CBIC Circulars

### Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A

#### Circular No. 174/06/2022-GST dated 06-07-2022

- Till the time an automated functionality for handling such cases is developed on the portal, the taxpayer shall make a written request, in format enclosed as Annexure-A in the Circular, to jurisdictional proper officer to re-credit the amount equivalent to the amount of refund thus paid back through FORM GST DRC-03, to electronic credit ledger.
- The proper officer, on being satisfied that the full amount of erroneous refund along with applicable interest, as per the provisions of section 50 of the CGST Act, and penalty, wherever applicable, has been paid by the said registered person in FORM GST DRC-03 by way of debit in electronic cash ledger, he shall re-credit an amount in electronic credit ledger, equivalent to the amount of erroneous refund so deposited by the registered person, by passing an order in FORM GST PMT-03A, preferably within a period of 30 days from the date of receipt of request for re-credit of erroneous refund amount so deposited or from the date of payment of full amount of erroneous refund along with applicable interest, and penalty, wherever applicable, whichever is later.

## GST Update – CBIC Circulars

### Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification

#### Circular No. 173/05/2022-GST dated 06-07-2022

Various representations have been received seeking clarification with regard to applicability of para 3.2 of the Circular No. 135/05/2020-GST dated 31.03.2020 in cases where the supplier is required to supply goods at a lower rate under Concessional Notification issued by the Government. Thus, CBIC has clarified as follows:

Refund of accumulated input tax credit on account of inverted structure as per clause (ii) of sub-section (3) of section 54 of the CGST Act, 2017 would be allowed in cases where accumulation of input tax credit is on account of rate of tax on outward supply being less than the rate of tax on inputs (same goods) at the same point of time, as per some concessional notification issued by the Government providing for lower rate of tax for some specified supplies subject to fulfilment of other conditions.



## GST Update – CBIC Circulars

### Clarification on various issue pertaining to GST

#### Circular No. 172/04/2022-GST dated 06-07-2022

Various representations have been received from the field formations seeking clarification on certain issues with respect to –

- i. refund claimed by the recipients of supplies regarded as deemed export;
- ii. interpretation of section 17(5) of the CGST Act;
- iii. perquisites provided by employer to the employees as per contractual agreement; and
- iv. utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarify the issues as under:

S. No.	Issue	Clarification
--------	-------	---------------

#### **Refund claimed by the recipients of supplies regarded as deemed export**

- |    |  |  |
|----|--|--|
| 1. | Whether the Input Tax Credit (ITC) availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports would be subjected to provisions of Section 17 of the CGST Act, 2017. | The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the recipients of deemed export supplies were facing difficulties on the portal to claim refund of tax paid due to requirement of the portal to debit the amount so claimed from their electronic credit ledger. Considering this difficulty, the tax paid on such supplies, has been made available as ITC to the recipients |
|----|--|--|

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
		<p>vide Circular No. 147/03/2021-GST dated 12.03.2021 only for enabling them to claim such refunds on the portal. The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of Section 17 of the CGST Act, 2017.</p>
2.	<p>Whether the ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is to be included in the “Net ITC” for computation of refund of unutilised ITC under rule 89(4) &amp; rule 89 (5) of the CGST Rules, 2017.</p>	<p>The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, such ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is not to be included in the “Net ITC” for computation of refund of unutilised ITC on account of zero-rated supplies under rule 89(4) or on account of inverted rated structure under rule 89(5) of the CGST Rules, 2017.</p>

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
--------	-------	---------------

### Clarification on various issues of section 17(5) of the CGST Act

- |    |  |   |
|----|--|---|
| 3. | Whether the proviso at the end of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b)? | <ol style="list-style-type: none"> <li>1. Vide the Central Goods and Service Tax (Amendment Act) 2018, clause (b) of sub-section (5) of section 17 of the CGST Act was substituted with effect from 01.02.2019. After the said substitution, the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act provides as under: “Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”</li> <li>2. The said amendment in sub-section (5) of section 17 of the CGST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub-section (5) of section 17, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21.07.2018.</li> </ol> |
|----|--|---|

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
		<p>It had been clarified “that scope of input tax credit is being widened, and it would now be made available in respect of Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force.”</p> <p>3. Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section (5) of section 17 of the CGST Act.</p>
4.	<p>Whether the provisions of sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act bar availment of ITC on input services by way of “leasing of motor vehicles, vessels or aircraft” or ITC on input services by way of any type of leasing is barred under the said provisions?</p>	<p>1. Sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act provides that ITC shall not be available in respect of following supply of goods or services or both—</p> <p>i. food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:</p>

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
		<p>Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply”</p> <p>2. It is clarified that “leasing” referred in sub-clause (i) of clause (b) of sub-section (5) of section 17 refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items. Accordingly, availment of ITC is not barred under sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.</p>

### **Perquisites provided by employer to the employees as per contractual agreement**

- |  |  |
|--|--|
| <p>5. Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?</p> | <p>1. Schedule III to the CGST Act provides that “services by employee to the employer in the course of or in relation to his employment” or in relation to his employment” will not be considered as supply of goods or</p> |
|--|--|

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
		<p>services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment.</p> <p>2. Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.</p>

### **Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities**

6. Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?
1. In terms of sub – section (4) of section 49 of CGST Act, the amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act or the Integrated Goods and Services Tax Act, 2017

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
		<p>(hereinafter referred to as “IGST Act”), subject to the provisions relating to the order of utilisation of input tax credit as laid down in section 49B of the CGST Act read with rule 88A of the CGST Rules.</p> <ol style="list-style-type: none"> <li>2. Sub-rule (2) of rule 86 of the CGST Rules provides for debiting of the electronic credit ledger to the extent of discharge of any liability in accordance with the provisions of section 49 or section 49A or section 49B of the CGST Act.</li> <li>3. Further, output tax in relation to a taxable person (i.e. a person who is registered or liable to be registered under section 22 or section 24 of the CGST Act) is defined in clause (82) of section 2 of the CGST Act as the tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism.</li> <li>4. Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic</li> </ol>

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
		credit ledger of a registered person.
		5. It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.
7.	Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST Laws?	As per sub-section (4) of section 49, the electronic credit ledger can be used for making payment of output tax only under the CGST Act or the IGST Act. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said acts. Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.
8.	Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST Laws?	As per sub – section (3) of section 49 of the CGST Act, the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST Laws.



## GST Update – CBIC Circulars

### Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices

#### Circular No. 171/03/2022-GST dated 06-07-2022

A number of cases have come to notice where the registered persons are found to be involved in issuing tax invoice, without actual supply of goods or services or both (hereinafter referred to as “fake invoices”), in order to enable the recipients of such invoices to avail and utilize input tax credit (hereinafter referred to as “ITC”) fraudulently. Representations are being received from the trade as well as the field formations seeking clarification on the issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), in respect of such transactions involving fake invoices which are clarified as follows:

S. No.	Issue	Clarification
1.	In case where a registered person “A” has issued tax invoice to another registered person “B” without any underlying supply of goods or services or both, whether such transaction will be covered as “supply” under section 7 of CGST Act and whether any demand and recovery can be made from ‘A’ in respect of the said transaction under	Since there is only been an issuance of tax invoice by the registered person ‘A’ to registered person ‘B’ without the underlying supply of goods or services or both, therefore, such an activity does not satisfy the criteria of “supply”, as defined under section 7 of the CGST Act. As there is no supply by ‘A’ to ‘B’ in respect of such tax invoice in terms of the provisions of section 7 of CGST Act, no tax liability

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
	<p>the provisions of section 73 or section 74 of CGST Act. Also, whether any penal action can be taken against registered person 'A' in such cases.</p>	<p>arises against 'A' for the said transaction, and accordingly, no demand and recovery is required to be made against 'A' under the provisions of section 73 or section 74 of CGST Act in respect of the same. Besides, no penal action under the provisions of section 73 or section 74 is required to be taken against 'A' in respect of the said transaction. The registered person 'A' shall, however, be liable for penal action under section 122 (1)(ii) of the CGST Act for issuing tax invoices without actual supply of goods or services or both.</p>
2.	<p>A registered person "A" has issued tax invoice to another registered person "B" without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice. B further issues invoice along with underlying supply of goods or services or both to his buyers and utilizes ITC availed on the basis of the above mentioned invoices issued by 'A', for payment of his tax liability in respect of his said outward supplies.</p>	<p>Since the registered person 'B' has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of section 16(2)(b) of CGST Act, he shall be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 74 of the CGST Act, along with applicable interest under provisions of section 50 of the said Act. Further, as per provisions of section 75(13) of CGST Act,</p>

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
	<p>Whether 'B' will be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.</p>	<p>if penal action for fraudulent availment or utilization of ITC is taken against 'B' under section 74 of CGST Act, no penalty for the same act, i.e. for the said fraudulent availment or utilization of ITC, can be imposed on 'B' under any other provisions of CGST Act, including under section 122.</p>
3.	<p>A registered person 'A' has issued tax invoice to another registered person 'B' without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice and further passes on the said input tax credit to another registered person 'C' by issuing invoices without underlying supply of goods or services or both. Whether 'B' will be liable for the demand and recovery and penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.</p>	<p>In this case, the input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, has been utilized by 'B' for passing on of input tax credit by issuing tax invoice to 'C' without any underlying supply of goods or services or both. As there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction, no tax was required to be paid by 'B' in respect of the same. The input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, is ineligible in terms of section 16 (2)(b) of the CGST Act. In this case, there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction and also no tax was required to be paid in respect of</p>

## GST Update – CBIC Circulars

.....Continued from above

S. No.	Issue	Clarification
--------	-------	---------------

the said outward transaction by 'B' to 'C' is required to be made from 'B' under the provisions of section 73 or section 74 of CGST Act.

However, in such cases, 'B' shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii) of the CGST Act, for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services.

## GST Update – CBIC Circulars

### **Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1**

#### **Circular No. 170/02/2022-GST dated 06-07-2022**

It is desirable that correct reporting of information is done by the registered person in FORM GSTR-3B and FORM GSTR-1 so as to ensure correct accountal and accurate settlement of funds between the Central and State Governments. Accordingly CBIC has provided clarification in relation with following of following details in GSTR-3B:

- Furnishing of information regarding inter-State supplies made to unregistered persons, composition taxable persons and UIN holders;
- Furnishing of information regarding ITC availed, reversal thereof and ineligible ITC in Table 4 of GSTR-3B.

To bring out a better clarity, we have released an Article naming “Amendments made in GSTR-3B post 47th GSTC Meeting - Analysis & Challenges to be faced by Industry”. To access the Article, kindly follow the link provided below:

<https://www.cgalegal.co.in/main/superadmin/upload/article/1657364980.pdf>

## GST Update – GST Technical Update

### Advisory on Upcoming Changes in GSTR-3B

**Dated : 22-07-2022**

The Government vide Notification No. 14/2022 – Central Tax dated 05th July, 2022 has notified few changes in Table 4 of Form GSTR-3B requiring taxpayers to report information on ITC correctly availed, reversal thereof and declaring ineligible ITC in Table 4 of GSTR-3B. The detailed Notification can be viewed by clicking [here](#)

The notified changes in Table 4 of GSTR-3B are being implemented on the GST Portal and will be available shortly. Until these changes are implemented on the GST Portal, taxpayers are advised to continue to report their ITC availment, reversal of ITC and ineligible ITC as per the current practice.

The taxpayers will be duly informed once these changes are made available on the GST Portal.

### Introducing new Table 3.1.1 in GSTR-3B for reporting supplies u/s 9(5)

**Dated : 20-07-2022**

According to section 9(5) of CGST Act, 2017, Electronic Commerce Operator (ECO) is required to pay tax on supply of certain services notified by the government such as Passenger Transport Service, Accommodation services, Housekeeping Services & Restaurant Services, if such services are supplied through ECO. For reporting of such supplies a new Table 3.1.1 is being added in GSTR-3B as per Notification No. 14/2022 – Central Tax dated 05th July, 2022 wherein both ECOs and registered persons can report their supplies made under section 9(5) respectively.

For detailed advisory, kindly follow the below link:

[https://tutorial.gst.gov.in/downloads/news/gstr\\_3b\\_sec\\_9\\_5\\_advisory\\_19\\_07\\_22.pdf](https://tutorial.gst.gov.in/downloads/news/gstr_3b_sec_9_5_advisory_19_07_22.pdf)

## GST Update – GST Technical Update

### Implementation of mandatory mentioning of HSN codes in GSTR-1

**Dated : 20-07-2022**

Vide Notification No. 78/2020 – Central Tax dated 15th October, 2020, it is mandatory for the taxpayers to report minimum 4 digits or 6 digits of HSN Code in Table-12 of GSTR-1 on the basis of their Aggregate Annual Turnover (AATO) in the preceding Financial Year. To facilitate the taxpayers, these changes are being implemented in a phase-wise manner on GST Portal.

For detailed advisory, kindly follow the below link:

[https://tutorial.gst.gov.in/downloads/news/hsn\\_advisory\\_table\\_12\\_2.pdf](https://tutorial.gst.gov.in/downloads/news/hsn_advisory_table_12_2.pdf)

### Removal of negative balance in cash ledgers of some composition taxpayers

**Dated : 08-07-2022**

Due to the reversal of amount in the cash ledger of some composition taxpayers, the balance in the cash ledgers had become negative. The government has now decided that the negative balance in the cash ledgers of such taxpayers should be nullified. Accordingly, the negative balance has been nullified. All such taxpayers have been informed through email also.

## GST Update – GST Articles

### Articles published by CGA Legal

In order to analyze the changes made through Notifications and Circulars issued to comply with the recommendations of the 47<sup>th</sup> GST Council Meeting held on 29.06.2022, CGA Legal has published various Articles on various issues.

The details of the Articles has been provided below:

S. No	Title	Link
1	Refinement in formula for claiming refund of ITC in case of Inverted Duty Structure	<a href="https://www.cgalegal.co.in/main/superadmin/upload/article/1657193839.pdf">https://www.cgalegal.co.in/main/superadmin/upload/article/1657193839.pdf</a>
2	Healthcare Industry under GST Net – Withdrawal of GST Exemption	<a href="https://www.cgalegal.co.in/main/superadmin/upload/article/1658208859.pdf">https://www.cgalegal.co.in/main/superadmin/upload/article/1658208859.pdf</a>
3	Amendments made in GSTR-3B post 47th GSTC Meeting - Analysis & Challenges to be faced by Industry	<a href="https://www.cgalegal.co.in/main/superadmin/upload/article/1657364980.pdf">https://www.cgalegal.co.in/main/superadmin/upload/article/1657364980.pdf</a>



## CGA Legal GST Video

### Video on Analysis and Implication of Changes made in GTA Services

In order to analyze the changes made in GTA Services vide Notifications issued to comply with the recommendations of the 47<sup>th</sup> GST Council Meeting, CGA Legal has published a video.

The link of the video is provided below:

<https://www.youtube.com/watch?v=wmEvn0t9sGs>

Further, the link of the presentation is also provided below:

<https://www.cgalegal.co.in/main/superadmin/upload/article/1658302920.pdf>

## CGA Legal Live Meet

### CGA Legal Live Webinar on Analysis of the Notifications and Circulars on Recommendations of 47th GST Council Meeting

In the recent GST Council Meeting held on 29.06.2022, GST Council put forward numerous proposals for the change not only into GST Rules but it also proposed an abundance of changes in GST rate on various goods and services including changes in various exemptions and removal of concessional rate of tax on certain supplies. To comply with such proposals of the GST Council, CBIC has issued certain Notification and Circulars which are effective from 18th of July 2022.

In order to analyze the above in detail, CGA Legal is organized its Webinar Series CGA Legal GST Meet; **“Analysis of the Notifications and Circulars on Recommendations of 47th GST Council Meeting” on 22<sup>nd</sup> of July 2022.**

The link of the video is provided below:

<https://www.youtube.com/watch?v=GQ5aewVVso&t=27s>

Further, the link of the presentations is also provided below:

S. No	Title	Link
1	Analysis of Tariff Notifications on Recommendations of 47th GST Council Meeting	<a href="https://www.cgalegal.co.in/main/superadmin/upload/article/1658492551.pdf">https://www.cgalegal.co.in/main/superadmin/upload/article/1658492551.pdf</a>
2	Analysis of Non Tariff Notifications on Recommendations of 47th GST Council Meeting	<a href="https://www.cgalegal.co.in/main/superadmin/upload/article/1658493124.pdf">https://www.cgalegal.co.in/main/superadmin/upload/article/1658493124.pdf</a>

## GST – Judicial Precedents

### 1. Supply

**Whether interest levied on loan granted by the Bank on credit card is liable to GST?**

#### **Ramesh Kumar Patodia versus Citi Bank NA [Calcutta High Court]**

**Facts:** Petitioner applied for an instant loan of Rs. 6,50,000/- at 13% interest above the credit limit of his credit card. Upon receipt of the credit card statements of two successive periods, the petitioner detected that IGST @ 18% was charged on the initial interest as well as interest component of EMI. Petitioner by several letters protested against charging of IGST on the interest component of the EMI and requested the Bank to reverse the said IGST charges. Since the respondents did not take any steps for reversing the said IGST charges and was continuing to charge IGST, this writ petition was filed.

**Held:** If the amount paid towards dues on the credit card is less than the total amount due, finance charges shall be levied on such outstanding (including but not limited to the transaction fee and EMI as above) as per the applicable interest rates. The applicable interest rate shall be mentioned in the monthly statement.

Since this Court has already held that the services rendered by the bank by way of extending loans to the petitioner in the instant case amounts to credit card services, the interest component of EMI of the said loan is nothing but interest involved in credit card services which is not exempted by notification no. 9/2017- Integrated Tax (Rate) dated June 28, 2017 - this Court holds that the interest component of EMI of loan advanced by the bank is not exempted under the said notification dated June 28, 2017. Thus, this issue is answered in the negative and against the petitioner.

## GST – Judicial Precedents

### 2. Input Tax Credit

Whether GST liability on sale of vehicle, spares, labour can be done by utilizing the input tax credit on purchase of demo vehicle, other expenses like repairs & maintenance, insurance etc.?

#### **Toplink Motorcar Private Limited [AAR West Bengal]**

**Held:** It needs to be reiterated that section 17(5)(a)(A) restricts input tax credit in respect of motor vehicle for transportation of persons except when they are used for further supply of such motor vehicles. The intention of the law, as it appears from the expression 'for further supply of such vehicles' is to allow input tax credit in respect of taxpayers dealing with motor vehicles as they are engaged in further supply of such motor vehicles - the expression 'such' bears a wide connotation which does not put any restriction in respect of supply of demo vehicles. When the applicant makes purchases of the demo vehicles, such purchases are also meant for further supply. However, as per Dealership Agreement and Test Drive Car Policy, the applicant requires capitalizing the demo vehicles and has to keep such vehicle for a specific period of time. Such activities, in any manner, do not change the purpose of further supply.

The standard business practice of a car dealer is to purchase vehicles including one or more demo vehicles for further supply of such vehicles. While non-demo vehicles are made available for sale immediately after the purchase, the demo vehicles are put up for sale after the demonstration/test drive period. The demo vehicles are purchased all along for further supply with the condition that they will be kept for a specific period of time - the purchase of demo vehicles and further supply of the same satisfies the condition laid down in section 17(5)(a)(A) of the GST Act.

The applicant is eligible to avail input tax credit on purchases of demo vehicles which can be set off against output tax payable under GST.

## GST – Judicial Precedents

### 3. Transitional Provisions

Supreme Court directed to open common portal for filing forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months.

#### **UOI versus Filco Trade Centre Pvt Ltd [Supreme Court]**

**Facts:** The Revenue filed SLP before the Supreme Court as various High Courts had allowed writ petitions filed by the registered taxpayers seeking directions to avail Transitional Credit beyond statutory time limit.

**Held:** GSTN is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022.

Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC).

GSTN has to ensure that there are no technical glitch during the said time.

The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.

Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.



**Contact Us :**

**CA. Chitresh Gupta**  
**Team CGA Legal**  
**[Chitresh.gupta@gstexperts.net](mailto:Chitresh.gupta@gstexperts.net)**



**DISCLAIMER:**

*The views expressed in this Bulletin are personal view of the presenter. This Bulletin includes general information about legal issues and developments in the law of GST in India. Such materials are for informational purposes only and may not reflect the most current legal developments. These informational materials are not intended, and must not be taken, as legal advice on any particular set of facts or circumstances. We disclaim all liability in respect to actions taken or not taken based on any or all the contents of this presentation to the fullest extent permitted by law.*