



CGA LEGAL

# THE GST BULLETIN

**October 2022 Issue - III**

**Date of Issue – 1<sup>st</sup>  
October 2022**

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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 - October 2022

| Statutory Due Date | Types of Return | Period          | Types of Taxpayer   |
|--------------------|-----------------|-----------------|---|
| 10-10-2022         | GSTR-7          | September 2022  | - TDS Deductor  |
| 10-10-2022         | GSTR- 8         | September 2022  | - E-Commerce Operator   |
| 11-10-2022         | GSTR-1          | September 2022  | - Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return Filing                   |
| 13-10-2022         | GSTR-1          | July- Sept-2022 | Turnover up to INR 5 Crores and under QRMP Scheme   |
| 13-10-2022         | GSTR-6          | September 2022  | - ISD   |
| 13-10-2022         | GSTR-5          | September 2022  | - Non Resident Taxable Person [Refer Note-2]  |
| 18-10-2022         | CMP-08          | July- Sept-2022 | Composition dealer  |
| 20-10-2022         | GSTR-3B         | September 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 |
| 20-10-2022         | GSTR-5A         | September 2022  | - OIDAR   |
| 22-10-2022         | GSTR-3B         | July- Sept-2022 | Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for *Category A States   |
| 24-10-2022         | GSTR-3B         | July- Sept-2022 | Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for **Category B States  |
| 25-10-2022         | ITC-04          | Apr- Sept-2022  | Registered person sending goods for Job work whose aggregate turnover during the immediately preceding financial year exceeds 5 Cr        |

## GST Compliance Calendar - October 2022

### Notes:

#### **1. 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.

**2. Revised Due date of furnishing of Return in Form GSTR-5 by NRTP:** Vide Finance Act, 2022, the due date for filing the return in Form GSTR-5 by every registered non-resident taxable person has been amended to thirteen days after the end of a calendar month. This has been made effective w.e.f. 1st October 2022 vide Notification No. 18/2022-Central Tax dated 28-09-2022

## GST Updates - Notifications

| S. No. | Notification No.          | Summary of Notifications  |
|--------|---------------------------|---|
| 1.     | 18/2022-CT dt. 28.09.2022 | <p><b>Seeks to notify the provisions of Finance Act, 2022 w.e.f. 01-10-2022</b></p> <p>Seeks to appoints the 1st day of October 2022, as the date on which the provisions of sections 100 to 114, except clause (c) of section 110 and section 111, of the Finance Act, 2022 shall come into force.</p> <p>The brief highlights of such changes which have been notified, are as follows:</p> <ul style="list-style-type: none"> <li>• ITC not to be availed if it is in restricted category of GSTR-2B;</li> <li>• Extension of due date of availment of ITC, issuance of credit notes and late date for making amendments in GSTR-1, GSTR-3B and GSTR-8 to 30th November following the end of FY;</li> <li>• Removal of reference to Section 43A from the conditions for availment of ITC;</li> <li>• Cancellation of registration due to delayed filing of GSTR-4 for more than three months from the due date of furnishing such return (i.e. 30th April of next FY) in case of composition taxpayer and such continuous tax period as may be prescribed in case of normal taxpayer;</li> <li>• Sequential filing of GSTR-1;</li> <li>• Due date of filing GSTR-5 for non-resident taxable persons to 13<sup>th</sup> of next month;</li> <li>• GSTR-3B to be filed only when GSTR-1 of the said period has been filed;</li> <li>• Reversal of ITC with interest if the supplier does not pay the taxes and re-availment thereof</li> <li>• Removal of clauses for two-way communication of ITC mismatches and that of new returns;</li> <li>• Removal of reference to Section 38 for GST Practitioners;</li> </ul> |

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|--------|------------------------------|---|
| 1.     | 18/2022-CT dt.<br>28.09.2022 | <p>.....<i>Continued from above</i></p> <ul style="list-style-type: none"> <li>• Levy of late fees for GSTR-8;</li> <li>• Maximum payment of output taxes allowed from electronic credit ledger</li> <li>• Refund from electronic cash ledger not through GSTR-3B but through prescribed manner;</li> <li>• Extension of limitation period for UN bodies to claim refund till 2 years.</li> <li>• Withholding and deduction of amounts extended to all kinds of refunds.</li> <li>• Relevant date prescribed for refund of supplies to SEZ without payment of tax.</li> </ul>   |
| 2.     | 19/2022-CT dt.<br>28.09.2022 | <p><b>Seeks to amend CGST Rules, 2017</b></p> <p>Seeks to amend the CGST Rules, 2017 which shall come into force with effect from the 1st day of October, 2022.</p> <p>The brief highlights of such changes are as follows:</p> <ul style="list-style-type: none"> <li>• Registration granted to a person is liable to be cancelled, if the said person, has not furnished return under section 39 for a continuous period of six months in case such person files the return on monthly basis and for a continuous period of two tax periods in case such person has opted for QRMP scheme.</li> <li>• Reference to Form GSTR-2 in Rule 36(2) for availing ITC has been removed as the concept of Form GSTR-2 has been done away with.</li> <li>• Rule 36(4) has been amended to provide that no input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under sub-section (1) of section 37 unless the details of <b>input tax credit in respect of</b> such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.</li> </ul> |

## GST Updates - Notifications

| S. No. | Notification No.          | Summary of Notifications   |
|--------|---------------------------|--|
| 2.     | 19/2022-CT dt. 28.09.2022 | <p data-bbox="846 381 1343 416">.....Continued from above</p> <ul style="list-style-type: none"> <li data-bbox="418 457 1343 779">• Rule 37 which provides the method of reversal of input tax credit in the case of non-payment of consideration by the recipient within 180 days from the date of invoice has been amended to provide that such reversal shall be done paying an amount equal to the input tax credit availed in respect of such supply along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice.</li> <li data-bbox="418 820 1343 928">• Further, the interest in case of non payment of consideration shall now be calculated from the date of availing such ITC till the date of payment of such ITC though GSTR-3B.</li> <li data-bbox="418 969 1343 1110">• Reference to Form GSTR-2 has been removed from Rule 38 which provides the reversal of ITC by a banking company or a financial institution. Further, these entities shall now make the reversal though Form GSTR-3B.</li> <li data-bbox="418 1152 1343 1259">• Reference to Form GSTR-2 in Rule 42 and 43 for reversal of ITC in respect of inputs or input services and capital goods respectively has been removed.</li> <li data-bbox="418 1301 1343 1442">• In Rule 60, which provides the form and manner of ascertaining details of inward supplies, reference to auto drafted Form GSTR-2B has been substituted with auto-generated GSTR-2B as Form GSTR-2B is an auto-generated statement.</li> <li data-bbox="418 1483 1343 1549">• Rules 69, 70, 71, 72, 73, 74, 75, 76, 77 and 79 of the CGST rules has been omitted.</li> <li data-bbox="418 1591 1343 1732">• Rule 83 has been amended to provide that a GST practitioner cannot undertake to furnish the details inward supplies on behalf of a registered person. Consequential changes has been made in Form GST PCT-05.</li> <li data-bbox="418 1773 1343 1914">• As the concept of matching has been done away with through Finance Act, 2022, the electronic liability register of the person shall not be debited by the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50.</li> </ul> |



## GST Updates - Notifications

| S. No. | Notification No.             | Summary of Notifications   |
|--------|------------------------------|--|
| 2.     | 19/2022-CT dt.<br>28.09.2022 | <p>.....<i>Continued from above</i></p> <ul style="list-style-type: none"> <li>• Refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 shall now be claimed through Form RFD-01.</li> <li>• Reference to Form GSTR-3, FORM GSTR-1A and FORM GSTR-2 for the purpose of claiming refund of integrated tax paid on goods or services exported out of India under Rule 96 of CGST Rules has been done away with.</li> </ul>   |
| 3.     | 20/2022-CT dt.<br>28.09.2022 | <p><b>Seeks to rescinds the Notification No. 20/2018-Central Tax, dated 28th March, 2018</b></p> <ul style="list-style-type: none"> <li>• Notification No. 20/2018-Central Tax, dated 28th March, 2018 provided the conditions and restrictions for claiming a refund for specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf has been rescinded.</li> </ul> |

## GST News

### **GST slaps biggest ever show cause notice of Rs 21,000 crore to Gameskraft Technology**

**Date: 25-09-2022**

The Directorate General of GST Intelligence (DGGI) has issued the biggest show cause notice in the history of indirect taxation to a Bengaluru-based online gaming company, Gameskraft Technology Private Ltd (GTPL), reported CNN News 18.

The company has been accused of not paying GST (Goods and Services Tax) to the tune of Rs 21,000 crore and the show cause notice is for the period between 2017 to June 30, 2022.

Gameskraft Technology was accused of promoting online betting through card, casual and fantasy games like Rummy Culture, Gamezy, Rummy Time, etc and DGGI has slapped a 28 percent tax on betting amounts of nearly Rs 77,000 crore.

Read more at:

<https://www.cnbctv18.com/business/companies/gameskraft-technology-gets-gst-show-cause-notice-of-rs-21000-crore-14798021.htm>

## GST – Judicial Precedents

### 1. Confiscation of Goods

**Power to confiscate the goods and vehicle can be exercised where the power to detain and seize has not been invoked**

#### **M/s. Rajeev Traders Versus Union of India [Karnataka High Court]**

**Facts:** On the 14.09.2021, the physical verification of the goods and conveyance was conducted in the presence of the person in charge of the goods vehicle and it was stated that the conveyance was carrying Areca nuts and there was a difference in the quantity mentioned in the invoice and the quantity found upon physical verification.

On the 28.09.2021, the officer passed an order of detention under Section 129 of the CGST Act. On the following day, i.e., on 29.09.2021, the Deputy Director, DGGI, proceeded to issue a notice for confiscation of goods, conveyances and levy of penalty under Section 130 of the CGST Act.

Appellant filed appeal before the Appellate Authority (AA) and being aggrieved by the Order of AA, this petition has been filed.

**Held:** The power to confiscate is the ultimate penal measure provided under the Act and is, therefore, to be exercised with great care and caution and as a last measure. This power to confiscate, given the statutory framework, is a distinct and independent power conferred under the Act which can be exercised only in cases where the power to detain and seize has not been invoked. Once the power to inspect, seize or detain the goods and conveyances is invoked either under Section 67 of the Act or under Section 129 of the Act, the power to confiscate under Section 130 would not be available. This is evident from Section 129 (6) which states that proceedings under Section 130 can be invoked only if the applicable tax and penalty are not paid despite an order being passed in that regard.

The power to detain under Section 129 cannot be converted to a proceeding under Section 130 of the Act since both these provisions operate independently of each other and in completely different contexts. The entire procedure adopted by the proper officer from converting the detention proceedings into a confiscatory proceeding, ultimately leading to the order of confiscation is wholly illegal and contrary to the statutory scheme of the Act.

Since it is stated that the confiscated goods are already sold in a public auction, the respondents are directed to pay the petitioners (the owner of the goods), the sale proceeds of the auction after deducting the penalty prescribed under Section 129(1)(a) of the Act, within a period of four weeks from the date of receipt of a certified copy of this order - the proper officer shall also release the conveyance, if it is not already released.

## GST – Judicial Precedents

### 2. Input Tax Credit

#### Whether ITC is eligible on Vouchers supplied against loyalty points?

##### **M/s. Myntra Designs Private Limited [AAR Karnataka]**

**Facts:** The Applicant, in order to incentivise the customers visiting the portal / e-commerce platform, proposes to run a loyalty program, by way of issuing points to the customers on the basis of purchases, effected by the customers from various sellers on the said platform. The participation in the proposed loyalty program will be on meeting the pre-defined eligibility criteria laid down by the applicant and the same will be subject to acceptance of the applicant's terms and conditions. Further the customer will be bound by the said terms and conditions and any changes or modifications to the same by participating in the said program.

The applicant would be procuring the vouchers & subscription packages, on payment of applicable GST, from third party vendors who would be classifying their supply under SAC 9983 as “other professional, technical and business” service.

In view of the above, the applicant has sought advance ruling in respect of the following question.

Whether the applicant would be eligible to avail the input tax credit, in terms of Section 16 of the CGST Act 2017, on the vouchers and subscription packages procured by the applicant from third party vendors that are made available to the eligible customers participating in the loyalty program against the loyalty points earned / accumulated by the said customers.

**Held:** It can be seen from the loyalty program that the applicant, on the basis of a particular transaction / purchase by the customer through their e-commerce platform and subject to acceptance of the terms and conditions of the applicant by the customer, allows the customer to earn loyalty points. The applicant in the said transaction recovers the full amount from the customer and gives the loyalty points free of cost. Further the said loyalty points, in the applicants own admission, do not have any monetary value, are non-transferable and cannot be converted to cash. The redemption of loyalty points, admittedly involves no flow of consideration from the customer. Thus, redemption of loyalty points by the customer for receiving vouchers from the applicant implies that the vouchers are issued free of cost to the customer and amounts to disposal of vouchers(goods) by way of gift and squarely covered under clause (h) of Section 17(5) of the Act, *ibid*.

## GST – Judicial Precedents

### 3. Exemption

**Whether GST is applicable on Renting of an immovable property to a Recognized Educational institution and which is also registered under section 12AA of the Income-tax Act, 1961?**

**M/s. Bollu Siva Gopala Krishna [AAR Telangana]**

**Facts:** The Applicant, sought advance ruling on the following issues:

1. Whether GST is applicable on Renting of an immovable property to a Recognized Educational institution (Which is not a commercial Activity) and which is also registered under section 12AA of the Income-tax Act, 1961 and which provides
  - i. Pre-School education and education up to higher secondary school or equivalent,
  - ii. Education as a part of a curriculum for obtaining a qualification recognized by any law for the time in force,
  - iii. Education as a part of an approved vocational education course;
2. Whether GST is applicable on Renting of an immovable property to a Government School?

**Held:** Notification No. 12/2017 at Serial No. 13 exempts services rendered by the charitable or religious trust registered under Section 12AA of the Income Tax Act, 1961. The said entry does not exempt services rendered to such institutions. Therefore, renting of immovable property to recognized educational institutions registered under Section 12AA are taxable supplies or services attracting CGST & SGST @ 9% each.

Similarly, there is no exemption for renting an immovable property to Government School and the consideration from such activity is taxable @9% CGST & SGST each.

## GST – Judicial Precedents

### 4. Classification

#### Rate of tax on services of printing of leaflets

#### M/s. Hyderabad Security Offset Printers Private Limited [AAR Telangana]

**Facts:** The applicant is printing leaflets and packing materials of his clients pertaining to pharmaceutical sector. The leaflet contains the literature pertaining to said medicine. The applicant is desirous of knowing the rate of tax on the services supplied by them.

**Held:** The Notification No. 11/2017 was amended on 22.08.2017 to insert the following at serial no. 27 by substitution:

| Heading      | Service Description  | Rate (%) |
|--------------|--|----------|
| Heading 9989 | (i) Services by way of printing of newspapers, books (including Braille books), journals and periodicals, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer. | 6        |
|              | (ii) Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (i) above.  | 9        |

The applicant is providing services of printing but this activity of printing does not fall under item (i) of heading 9989 i.e., printing of newspapers, books (including Braille books), journals and periodicals and hence is covered under Heading 9989 (ii) of Notification No.11/2017-Central Tax (Rate), dated: 28-06-2017 as amended and is taxable at 9% CGST & 9% SGST.

Further, by amended Notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017, the following entry was introduced at serial no. 26 with chapter heading 9988 at sub item (iia) “(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent.”

In light of the above amended entry, it is clarified that where the applicant uses physical input, i.e., paper supplied by their client for the purpose of goods falling under chapter 48 or 49 of customs taxable @ 6% CGST then the same will be taxable at 6% under CGST.



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