

The logo for CGA LEGAL features the text "CGA LEGAL" in a blue, sans-serif font. Above and below the text are two curved, reddish-brown lines that sweep upwards and outwards, framing the text.

**CGA LEGAL**

*Your GST Knowledge Partner*

# **The GST Bulletin**

*Month: February 2022 – Issue-I*

*Date of Issue: 07th February 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)

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## GST Compliance Calendar - February 2022

Statutory Due Date	Type of Return	Period	Type of Taxpayer
10-02-22	GSTR-7	January-2022	TDS Deductor
10-02-22	GSTR-8	January-2022	E-Commerce Operator
11-02-22	GSTR-1	January-2022	Turnover more than INR 5 crore in the preceding FY & Turnover up to INR 5 crores and have opted for monthly return filing.
13-02-22	Details of Outward Supplies through Invoice Furnishing Facility [IFF]	January-2022	Taxpayers who are under QRMP Scheme
13-02-22	GSTR-6	January-2022	ISD
20-02-22	GSTR-3B	January-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
20-02-22	GSTR-5	January-2022	Non-Resident Taxable Person
20-02-22	GSTR-5A	January-2022	OIDAR
25-02-22	GST PMT-06	January-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.
28-02-22	GSTR-9	FY 2020-21	Annual Return to be filed by every registered persons
28-02-22	GSTR-9C	FY 2020-21	Reconciliation statement to be filed by registered person with Agg Turn > INR 5Cr

## GST Compliance Calendar - February 2022

### Note:

Vide **Notification 40/2021 – Central Tax dated 29-12-2021**, date of furnishing annual return and self-certified reconciliation statement for FY 2020-21 is extended till 28-02-2022.

## **GST Updates – Union Budget 2022**

### **Analysis of GST Proposals made in Union Budget 2022 and its Implications on Industry**

**Dated 01-02-2022**

The Union Finance Minister Nirmala Sithraman has presented the Union Budget 2022 on 01<sup>st</sup> February 2022. Honorable Finance Minister said while presenting the budget in the Lok Sabha that “Union Budget 2022-23 will lay the foundation for India's economic growth and expansion for the next 25 years”.

The detailed analysis of the GST proposals made through Budget 2022 has been given in our presentation of the webinar held on 4<sup>th</sup> February 2022. The same can be accessed with the link provided below:

<https://www.cgalegal.co.in/superadmin/upload/article/1644218554.pdf>

Further, the recorded video of the live meet can be accessed with the following link:

<https://www.youtube.com/watch?v=dRee42ZuCWY>

## **GST Updates - GST Technical Updates**

### **New Functionalities made available for Taxpayers on GST Portal**

**Dated 04-02-2022**

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

To view module wise functionalities deployed on the GST Portal, kindly follow the below link:

[https://tutorial.gst.gov.in/downloads/news/new %20functionalities compilation january 2022.pdf](https://tutorial.gst.gov.in/downloads/news/new_%20functionalities_compilation_january_2022.pdf)

### **GST Registration to be cancelled if ITC taken in GSTR-3B varies more than 10% with GSTR-2B**

**Dated 30-01-2022**

The Goods and Services Tax Network (“GSTN”) has issued an update w.r.t. GST Registration to be cancelled if Input Tax Credit (“ITC”) taken in GSTR-3B varies more than 10% with GSTR-2B.

Registration can be suspended as the percentage difference in liability declared in GSTR-3B varies more than 10% with that declared in GSTR-1 or the ITC claimed in GSTR-3B varies more than 10% with the values auto-populated from GSTR-2B on the basis of GSTR-1 filed by suppliers.

## GST Updates - GST Technical Updates

### GSTN enabled new feature w.r.t. tax liability breakup table in GSTR-3B on GST Portal

Dated 30-01-2022

The Goods and Services Tax Network (“GSTN”) has enabled a new feature w.r.t. tax liability breakup table in GSTR-3B used when declaring past period liability in the current period.

Dashboard > Returns > GSTR-3B > Filing of Tax English

**Breakup of tax liability** HELP

**In case the tax liability declared in the current month, includes liability of previous months, then provide the breakup of such tax liability.**

Period	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	CESS (₹)	Action
December 2021	0.00	3,977.00	3,977.00	0.00	

**SAVE**

**Verification**

I/We hereby solemnly affirm and declare that the information given herein above is true and correct (in respect of Form GSTR-3B) to the best of my knowledge and belief and nothing has been concealed therefrom.

BACK
PREVIEW DRAFT GSTR-3B
FILE GSTR-3B WITH EVC
FILE GSTR-3B WITH DSC



## GST Updates - GST Technical Updates

### GSTN enabled new functionality w.r.t. liability paid percentage on GST Portal

Dated 30-01-2022

The Goods and Services Tax Network (“GSTN”) enabled new functionality w.r.t. calculation methodology of liability paid percentage on GST Portal for Taxpayers.

SHOW FILING TABLE

E-WAY BILL HISTORY

LIABILITY PAID PERCENTAGE

Search Result based on GSTIN/UIN : XXXXXXXXXX

Show Calculation Formula

% of Liability paid represents quantum of liability auto populated from GSTR-1 that was declared/paid in GSTR-3B.

Current Financial Year

Financial Year	Tax Period	% of Liability paid
2021-22	August	100%
2021-22	July	100%
2021-22	June	100%
2021-22	May	101%
2021-22	April	100%
2021-22	September	100%
2021-22	December	100%
2021-22	November	100%
2021-22	October	100%
<b>2021-22</b>	<b>Total</b>	<b>100%</b>

Previous Financial Year

Financial Year	Tax Period	% of Liability paid
2020-21	August	100%
2020-21	July	100%
2020-21	June	100%
2020-21	May	100%
2020-21	April	-
2020-21	September	100%
2020-21	January-March	100%
2020-21	December	100%
2020-21	November	100%
2020-21	October	100%
<b>2020-21</b>	<b>Total</b>	<b>100%</b>

Note: Liability percentage is displayed for the periods only after GSTR-1 & GSTR-3B are filed and GSTR-2B is generated.

## GST News

### **Budget cheer for government: GST collection in January stands at Rs 1.38 lakh crore**

**Dated 31-01-2022**

The goods and services tax (GST) collection crossed the Rs 1.30 lakh crore-mark for the fourth time as the Government of India collected Rs 1,38,394 crore gross GST revenue for January 2022, the Ministry of Finance said on January 31.

The last time the Centre's GST collection stood below the 1.30 lakh crore mark was in September 2021, when it collected a gross GST revenue of Rs 1.17 lakh crore.

The Government of India recorded its highest monthly GST collection at Rs 1.39 lakh crore in April 2021.

Revenues for the month of January 2022 were 15 percent higher than GST revenues in the same month last year and 25 percent higher than the GST revenues in January 2020, the ministry said.

## GST – Judicial Precedents

### 1. Detention of Goods and Vehicle

**Whether tax evasion can be presumed on mere non-extension of validity of e-way bill due to traffic blockage and agitation?**

#### **Assistant Commissioner (ST) Vs M/s. Satyam Shivam Papers Pvt. Limited [Supreme Court]**

**Facts:** This petition has been filed by the Revenue Department, being aggrieved of the judgment passed by the Hon'ble Telangana High Court in Satyam Shivam Papers Pvt. Ltd. v. Assistant Commissioner ST & Ors. wherein, the Court set aside the order passed by the Department in Form GST MOV-09, imposing tax and penalty on Satyam Shivam Papers Pvt. Ltd. due to the expiry of the e-way bill and deprecated the Department for blatant abuse of power in detaining goods by treating validity of the expiry on the e-way bill as amounting to evasion of tax compelling to pay INR 69,000/- by such conduct. It was held that, no presumption can be drawn that there was an intention to evade tax on account of non-extension of the validity of the e-way bill by M/s Satyam Papers. Further, directed the Department to refund the amount collected with interest @6% p.a. and imposed fine of INR 10,000/- payable to M/s Satyam Papers.

**Held:** On the facts of this case, it has precisely been found that there was no intent on the part of M/s Satyam Papers to evade tax and rather, the goods in question could not be taken to the destination within time for the reasons beyond the control of M/s Satyam Papers. When the undeniable facts, including the traffic blockage due to agitation, are taken into consideration, the State alone remains responsible for not providing smooth passage of traffic.

Further, Honorable Supreme Court enhanced and imposed a further sum of INR 59,000/- on the Department, the amount toward costs, over and above the sum of INR 10,000/- already awarded by the Hon'ble Telangana High Court.

## GST – Judicial Precedents

### 2. Summon

#### Whether summons can be issued where the assessee is cooperating during the inquiry?

#### **FSM Education Private Limited v. Union of India [Bombay High Court]**

**Facts:** The Revenue Department (“the Respondent”) issued various summons to the Petitioner under Section 70 of the Central Goods and Services Tax Act, 2017 (“the CGST Act”) for appearance and to submit certain documents, without any details of the inquiry, wherein, the Accounts Manager of the Petitioner was grilled and interrogated and was subjected to cross-questioning. Further another summon was issued to one of the Directors of the Petitioner for appearance, producing documents and providing oral evidence.

The Petitioner contended that, all the documents are furnished as requisitioned by the Respondent. Further, the summons cannot be issued to coerce and pressurize the Petitioner or its Director, being a musician, who is not personally familiar with the issue of exemption regarding payment of GST.

**Held:** A perusal of the reply to the question 34 of FAQs dated 15 December 2018, issued by GST Department would clearly indicate that the issuance of summons is a last resort and are not issued in a casual manner. Further, there are no allegations made by the Respondent alleging non-cooperation on the part of the Petitioner. Further observed that, the Petitioner is agreeable to co-operate with the Respondents in furnishing the documents as requisitioned and to provide further details through consultants.

If any summon is issued by the Respondent, it shall indicate the purpose of issuing summon with clear 7 days notice before fixing the date for recording the statement of the Director of the Petitioner, who shall appear on the appointed date and cooperate with the Respondent in recording evidence.

## GST – Judicial Precedents

### 3. Supply

**Whether GST is applicable on sale of plot of land with primary amenities such as, Drainage line, water line, electricity line, land leveling etc.?**

#### **Shree Dipesh Anil kumar Naik [AAAR Gujarat]**

**Facts:** The appellant Shree Dipesh Anilkumar Naik, has submitted that he is a farmer having a vacant land outside the municipal area of town for which he has got necessary approvals from the Plan Passing Authority (the Jilla Panchayat) as per which the seller of land was required to develop the primary amenities like sewerage and drainage line, water line, electricity line, land leveling for road, pipe line facilities for drinking water, street lights, telephone line etc. He would then sell the individual plots to different buyers without any construction on the same but by providing the primary amenities as mentioned above, which are mandatory requirements of the approved Plan Passing Authority (the Jilla Panchayat). The appellant sought Advance Ruling *“whether GST is applicable on sale of plot of land for which, as per the requirement of approval by the respective authority (the Jilla Panchayat), primary amenities such as, Drainage line, water line, electricity line, land leveling etc. are to be provided by the applicant”?*

**Held:** The appellant’s sales price includes the cost of the land as well as the cost of common amenities as mentioned above, on a proportionate basis. Schedule II of the CGST Act, 2017 pertains to activities or transactions to be treated as ‘supply of goods or supply of services’. The said activity is not covered under Entry No.5 of Schedule-III of the CGST Act, 2017 as contended by the appellant, but it is a supply of taxable service involving ‘construction of civil structure or a part thereof, intended for sale to a buyer’ falling under the head ‘Construction services’ appearing at Sr.No.3 of Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time) and GST at the rate of 18% is payable on the sale of developed plots in terms of CGST Act, 2017 and Rules thereunder.

## GST – Judicial Precedents

### 4. Demand and Recovery

**Whether interest and penalty under Section 73 and 74 can be imposed on wrong availment of ITC but not utilized?**

**Aathi Hotel, Vs The Assistant Commissioner (ST) (FAC) , Nagapattinam District. [Madras High Court]**

**Facts:** It is the case of the petitioner that though the petitioner had filed TRAN-1 and claimed wrong credit of ₹ 3,86,271/-, the aforesaid credit was never utilized and therefore even though the petitioner had failed to reply to the Show Cause Notice dated 09.05.2019 followed by a summary Show Cause Notice dated 31.12.2019, can the question of levying interest and imposing penalty on the petitioner under the provisions of Tamil Nadu Goods and Services Tax Act, 2017 arise inasmuch as the entire transitional credit of ₹ 3,86,271/- was reversed by the petitioner in the monthly returns for the month of January 2020 for the Assessment Year 2019-2020.

**Held:** Before levying penalty or interest, a proper excise was required to be made by a proper officer under Section 74(10) after ascertaining whether the credit was wrongly availed and wrongly utilised. Though under Sections 73(1) and 74(1) of the Act, proceedings can be initiated for mere wrong availing of Input Tax Credit followed by imposition of interest penalty either under Section 73 or under Section 74 they stand attracted only where such credit was not only availed but also utilised for discharging the tax liability. The proper method would have been to levy penalty under Section 122 of TNGST Act, 2017 - the petitioner is not liable to penalty imposed. At the same time, since there was an attempt to wrongly avail credits and utilise the same as and when the tax liability would have arisen, the petitioner is held liable to a token penalty.

Petition allowed in part.

## GST – Judicial Precedents

### 5. Input Tax Credit

#### Whether the ITC is eligible on GST paid under Reverse Charge Mechanism @ 5% for hiring of buses for transportation of employees?

##### **M/s. Maanicare System India Private Limited [AAR Maharashtra]**

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

Whether the Applicant (Maanicare System India Pvt Ltd) is eligible to take input tax credit on GST paid under Reverse Charge Mechanism @ 5% for hiring of buses for transportation of employees?

**Held:** Section 17 (5) had clearly debarred Input Tax Credit on motor vehicles or conveyances used in transport of passengers till the date of the amendment i.e. 01.02.2019. However, with effect from 01.02.2019, Input Tax Credit has been allowed on leasing, renting or hiring of motor vehicles, for transportation of persons, having approved seating capacity of more than thirteen persons (including the driver) - In the instant case, the bus service availed by the Applicant is 49-seater i.e. more than 13 seater. Accordingly, the same is not falling under the block credit as provided under section 17 (5) of CGST Act 2017 and, therefore, in the instant case, (since the applicant is utilizing the services of renting of motor vehicle for business or furtherance of business), the input tax credit is not restricted to the applicant under the referred Section 17(5) of CGST Act 2017.

The applicant would be eligible for ITC but only with effect from 01/02/2019 only.

# CONTACT US



## Contact Us

**CA. Chitresh Gupta**

**Team CGA Legal**

**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.*

