



# THE GST BULLETIN

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**YOUR INDIRECT TAX KNOWLEDGE PARTNER**

**March 2023 Issue - I**  
**Date of Issue - 10th**  
**March 2023**

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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)

## In this Issue.....

S. No.	Particulars
1.	<b>GST Compliance Calendar – March 2023</b>
2.	<b>GST Updates</b>
	❖ GST Notifications
	❖ GST Technical Updates
3.	<b>GST News</b>
4.	<b>GST Judicial Precedents</b>
	❖ Levy of penalty upon the petitioner for transporting goods against an expired e-way bill [Abinash Kumar Singh versus The State of West Bengal & Ors. - Calcutta High Court]
	❖ Whether supply of ice cream from any of the outlets to be considered as supply of 'restaurant services' or supply of goods? [M/s. HRPL Restaurants Pvt. Ltd. - AAR Gujarat]
	❖ ITC reversal on supply of Alcoholic Liquor? [M/s. Karnani FNB Specialities LLP - AAR West Bengal]
	❖ Whether intention to evade payment of tax is mandatory for invoking of Section 129 of CGST Act, 2017? [M/s Sterile India Pvt. Ltd. Versus Union of India & Ors - P&H High Court]

## GST Compliance Calendar - March 2023

Date	Types of Return	Period	Types of Taxpayer
10-03-2023	GSTR-7	February 2023	TDS Deductor
10-03-2023	GSTR-8	February 2023	E-Commerce Operator
11-03-2023	GSTR-1	February 2023	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-03-2023	Details of Outward Supplies through Invoice Furnishing Facility [IFF]	February 2023	Taxpayers who are under QRMP Scheme
13-03-2023	GSTR-6	February 2023	ISD
13-03-2023	GSTR-5	February 2023	Non Resident Taxable Person
15-03-2023	Declaration in Annexure-5	FY 2023-24	Goods Transport Agency service provider opting to pay the tax under forward charge for FY 2023-24 as per NN 03/2022-CT(R) dated 13-07-2022
20-03-2023	GSTR-3B	February 2023	Turnover more than INR 5 crore in the preceding FY or Turnover upto INR 5 crore in the preceding FY but opted for monthly return filing
20-03-2023	GSTR-5A	February 2023	OIDAR
25-03-2023	GST PMT-06	February 2023	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.
31-03-2023	GST CMP-02	FY 2023-24	Any registered person opting for Composition Scheme for FY 2023-24
31-03-2023	GST RFD-11	FY 2023-24	Any registered person applying for the renewal of LUT for FY 2023-24 for export of goods or services or both without payment of IGST

## GST Updates – CBIC Notification

Ntf. No.	Summary of Notifications
<b>01/2023 – CT</b> <b>Dated</b> <b>28.02.2023</b>	<p><b>Seeks to extend the scope of exemption on Educational Institutions</b></p> <ul style="list-style-type: none"> <li>• A clause has been added in the explanation in the Exemption Notification No. 12/2017-CT(R) to clarify that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.</li> </ul>
<b>02/2023 – CT</b> <b>Dated</b> <b>28.02.2023</b>	<p><b>Seeks to extend the scope of applicability of Reverse Charge Notification to Courts and Tribunals</b></p> <ul style="list-style-type: none"> <li>• Clause (h) of Explanation to Notification No. 13/2017-CT(R) has been amended to provide that provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament and State Legislatures, Courts and Tribunals.</li> </ul>
<b>03/2023 – CT</b> <b>Dated</b> <b>28.02.2023</b>	<p><b>Seeks to amend the rate of tax on certain Goods</b></p> <ul style="list-style-type: none"> <li>• Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled shall be taxable @ 5%;</li> <li>• Pencil sharpeners shall be taxable @ 12%.</li> </ul>
<b>04/2023 – CT</b> <b>Dated</b> <b>28.02.2023</b>	<p><b>Seeks to exempt Rab, other than pre-packaged and labelled from GST</b></p> <ul style="list-style-type: none"> <li>• Notification No. 02/2017-CT(R) has been amended to provide exemption on Rab if sold other than pre-packaged and labelled.</li> </ul>

## GST Updates – CBIC Notification

Ntf. No.	Summary of Notifications
01/2023 CC(R) Dated 28.02.2023	<p data-bbox="278 404 1335 486">– Seeks to amend notification no. 1/2017- Compensation Cess (Rate), dated 28.06.2017</p> <ul data-bbox="328 538 1335 756" style="list-style-type: none"><li data-bbox="328 538 1335 756">• Entry No. 41A of Notification No. 01/2017-CC(R) has been amended to provide that the rate of Compensation Cess to be Nil even in case the coal rejects is supplied by the coal washery or to a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person.</li></ul>

## GST Update – GST Technical Updates

### **Mandatory reporting of Six digit HSN Code on Invoice for taxpayers having AATO more than Rs 5 Crores**

#### **Advisory: GST E-Invoice System**

As per the Notification No.78/2020 – Central Tax dated 15th October, 2020 , it is mandatory for the taxpayers to mention 6-digit HSN Codes for their outward supplies having AATO more than Rs 5 Crores.

After a few weeks of time , e-Invoice System will not accept 4-digit HSN codes. The date for blocking e-Invoice generation having HSN code as 4-digits will be intimated shortly in this portal.

So, please make necessary changes in the system to report 6-digit HSN codes to e-Invoice Portal and comply by the notification.

You may verify all your HSN codes in the ( <https://einvoice1.gst.gov.in> ) portal under Search-->Master-->HSN Codes and also test in the sandbox system ( <https://einv-apisandbox.nic.in> ).

In case the 6 digit HSN code is not available, you may raise a ticket at Helpdesk so that it can be included in the system.

## GST Update – GST Technical Updates

### GSTN launches e-invoice registration services with private IRPs

**Dated : 04-03-2023**

In another step towards further digitization of the business process flow, GSTN has launched the e-invoice registration services through multiple private IRPs at the recommendation of the GST Council. Four private companies viz. Clear Tax, Cygnet, E&Y and IRIS Business Ltd were empaneled by GSTN for providing these e-invoice registration services to all GST taxpayers of the country. The details of the existing and new IRPs is available at <https://einvoice.gst.gov.in/einvoice/dashboard>

The taxpayers now have a choice of more than one IRP (earlier being the only single portal of NIC), which they can use to register their e-invoices. This adds significant capacity and redundancy to the single e-invoice registration portal which existed earlier.

The end-to-end flow of a digitally signed e-invoice between sellers and buyers by integration with the GST system will lead to ease of compliance for the taxpayers. It will also lead to facilitation of auto-drafting and auto-populating of invoice details in the GST returns which would lead to increased accuracy, correctness of reporting of supplies and availing of ITC by the recipients of the supply.



## GST News

### Amnesty for pre-GST tax arrears extended

**Dated : 10-03-2023**

The amnesty scheme for settlement of arrears of tax, interest, penalty or late fee prior to the implementation of the Goods and Services Tax introduced by the Maha Vikas Aghadi (MVA) government has been extended by state finance minister Devendra Fadnavis.

Terming it the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2023, Fadnavis in his maiden budget speech said under the scheme, the government will grant a full waiver of arrears, if the arrears for any year are Rs 2 lakh or less as per the statutory order. He said this would benefit small traders in nearly one lakh cases.

Also, dealers having arrears up to Rs 50 lakh or less as per the statutory order will pay only 20% of the total arrears and the remaining 80% will be waived. This, he said, would benefit around 80,000 cases. The scheme was introduced by the MVA in its 2021-22 budget. It had allowed full waiver for arrears below Rs 10,000 and had benefited around 89,890 cases.

An outstanding amount of Rs 81 crore was waived off. Further, traders withdrew 20,000 non appealable claims to take advantage of the amnesty scheme, 2022. An amount of Rs 2,234 crore has been collected under this scheme while arrears to the tune of Rs 6,947 crore had been waived.

The new scheme will be in force from May 1 to October 31, 2023. It will be applicable for the arrears pending as on May 1, 2023.

Read more: <https://timesofindia.indiatimes.com/city/mumbai/amnesty-for-pre-gst-tax-arrears-extended/articleshow/98529>

## GST – Judicial Precedents

### 1. Detention of Goods and Vehicle

#### Levy of penalty upon the petitioner for transporting goods against an expired e-way bill

##### **Abinash Kumar Singh versus The State of West Bengal & Ors [Calcutta High Court]**

**Facts:** The petitioner was transporting goods against an e-way bill which was generated on 23rd April, 2022. The vehicle of the petitioner was checked at the Cooch Behar check post on 28th April, 2022. The petitioner alleges that despite producing all necessary documents in connection with the consignment, the check post authority kept the vehicle waiting and deliberately did not issue gate pass permitting the vehicle to leave the check post. The vehicle was ultimately issued gate pass on 2nd May, 2022, by which time, the e-way bill expired on 30th April, 2022. After the vehicle was released from Cooch Behar and was on the way to the final destination, the same was intercepted and being found that there wasn't a valid e-way bill

**Held:** Transportation of goods with a proper e-way bill is one of the salient features of the Act. There is no scope to dilute the said provision of law for granting relief to an errant transporter. The Act cannot and ought not to be interpreted in such a manner that the very essence of the same is lost. Section 129 of the Act opens with a non obstante clause which lends a mandatory character to the same. The petitioner may or may not be directly responsible for the delay in issuance of the gate pass, but he is certainly at fault in transporting goods without a valid e-way bill.

Petition dismissed.

## GST – Judicial Precedents

### 2. Classification

**Whether supply of ice cream from any of the outlets to be considered as supply of 'restaurant services' or supply of goods?**

**M/s. HRPL Restaurants Pvt. Ltd. [AAR Gujarat]**

**Facts:** The applicant runs a chain of restaurants/eating joint. Ice cream is being served at the restaurants of the applicant and the readily available ice creams [not prepared in their outlets] is also sold over the counter.

**Held:** The supply of ice cream from the outlets of the applicant cannot be considered as supply of 'restaurant services'. The readily available ice creams [not prepared in their outlets] sold over the counter is supply of goods. However, an ice cream when ordered and supplied along with cooked or prepared food, through their outlets would assume the character of composite supply, wherein the prepared food being the principal supply and hence qualifies as 'restaurant services'.

The supply of ice cream from the outlets of the applicant is not classified as 'restaurant services'. However, the composite supply, supra, classifiable under 'restaurant service' would be leviable to GST @ 5% with no input tax credit as per Sr. No. 7(ii) of notification No. 11/2017-CT (Rate) dtd 28.6.2017 as amended vide notification No. 20/2019-CT (Rate) dated 30.9.2019.

The supply of only ice cream [not prepared in their outlets and which is readily available] from any of the outlets of applicants is held to be akin to supply of ice cream from ice cream parlour, leviable to GST @ 18%.

## GST – Judicial Precedents

### 3. Input Tax Credit

#### ITC reversal on supply of Alcoholic Liquor?

##### **M/s. Karnani FNB Specialities LLP [AAR West Bengal]**

**Facts:** The applicant is engaged in the business of providing restaurant services. The applicant seeks AAR whether the applicant is required to reverse ITC on sale of Alcoholic Liquor in terms of Section 17(2) of the CGST Act read with Rule 42 of the CGST Rules, 2017. Applicant also contends that reversal of input tax credit would other way mean discharging of GST liability on output supply of alcoholic liquor for human consumption

**Held:** A supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act is defined as Non-taxable supply in section 2(78) of the CGST Act. Thus, sale of alcoholic liquor for human consumption shall be treated as non-taxable supply - Further, exempt supply as defined in clause (47) of section 2 of the GST Act includes non-taxable supply. A conjoint reading of section 2(47) and 2(78) thus denotes clearly that the aforesaid supply would also be treated as exempt supply under the GST Act. Sub-section (2) of section 17 of the GST Act read with rule 42 of the GST Rules allows a registered person to utilize input tax credit to the extent of input tax paid on inputs and input services that are used for making taxable supplies including zero-rated supply. Credit of input tax attributable to 'exempt supplies' is to be reversed as per the prescribed formula. As it is held that the activities of selling of alcoholic liquor for human consumption by the applicant would be treated as 'non-taxable supply' and therefore falls under the category of 'exempt supply' under the GST Act, the applicant is required to reverse input tax credit.

In relation with the another contention, AAR held that the statutory scheme, as envisaged under the Act requires reversal of tax which is charged on inward supply of goods or services or both. Input tax is totally different and distinct from outward supply. Since tax is not leviable on supply of alcoholic liquor for human consumption under the GST Act, there cannot be any inward supply to the applicant of the said item on which tax is to be charged by its supplier or the applicant is liable to pay tax under reverse charge mechanism - the reversal of tax charged on inward supplies which are altogether different from outward exempted supplies of alcoholic liquor for human consumption would no way lead to discharging of GST liability on outward supply.

## GST – Judicial Precedents

### 4. Detention of Goods and vehicle

#### Whether intention to evade payment of tax is mandatory for invoking of Section 129 of CGST Act, 2017?

##### **M/s Sterile India Pvt. Ltd. Versus Union of India & Ors [P&H High Court]**

**Facts:** The goods belonging to the petitioner were apprehended while in transit in Vehicle No.HR-61C-7811 by the Proper Officer on 23.05.2018 at 11.15 PM. On verification it was found that the Part-B of the E-Way bill was not entered as contemplated under provisions of Rule 138 of the CGST/SGST Rules, 2017. Consequently, the conveyance carrying the goods was detained under Section 129 (1) of the CGST/SGST Act, 2017. Petitioner submits that there was no intention on part of the petitioner to evade tax and thus penalty ought not have been levied.

**Held:** The counsel for the petitioner is wrong in contending that since there was no intend to evade tax the impugned orders passed under Section 129 of the CGST/SGST Act, 2017 cannot be sustained.

For the purpose of Section 129 of the CGST/SGST Act, 2017 there is no requirement that there should be intention to evade tax. The authorities are not required to establish intention to evade payment of tax. Section 129 of the CGST/SGST Act, 2017 has been enacted to check evasion of tax. If the goods are intercepted during transit and the documents accompanying the goods are not in compliance with the provisions of the Act, authorities are within their power to detain the goods and demand payment of tax and 100% penalty under the provisions. Moreover, the petitioner does not deny that payment under Section 129(3) of the CGST/SGST Act, 2017 has been made.

Keeping in view the bare provision of Section 129 (5) all proceedings in respect to the notice are deemed to have been concluded - there is no ground to interfere in the impugned order.

Petition dismissed.



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