



THE GST BULLETIN

YOUR INDIRECT TAX KNOWLEDGE PARTNER

January 2023

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www.cgalegal.co.in

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

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GST Updates – CBIC Notification

Ntf. No.	Summary of Notifications							
01/2023 – CT Dated 04.01.2023	Seeks to amend Notification No. 14/2017-CT dated 01-07-2017							
	<p>The CBIC vide Notification No. 01/2023-Central Tax dated January 4, 2023 has made amendments in Notification No. 14/2017 – Central Tax dated July 1, 2017 which assigned jurisdiction and power to officers of the Directorate General of Goods and Services Tax Intelligence (“DGGSTI”), Directorate General of Goods and Services Tax (“DGGST”) and Directorate General of Audit (“DGA”), in order to give power to Additional Assistant Directors to exercise the powers of Superintendent in a following manner:</p>							
	<table border="1"> <thead> <tr> <th data-bbox="315 857 432 990">Sl. No.</th> <th data-bbox="436 857 991 990">Officers</th> </tr> </thead> <tbody> <tr> <td data-bbox="315 990 432 1197">“8A.</td> <td data-bbox="436 990 991 1197">Additional Assistant Director, Goods and Services Tax Intelligence or Additional Assistant Director, Goods and Services Tax or Additional Assistant Director, Audit</td> </tr> </tbody> </table>	Sl. No.	Officers	“8A.	Additional Assistant Director, Goods and Services Tax Intelligence or Additional Assistant Director, Goods and Services Tax or Additional Assistant Director, Audit	<table border="1"> <thead> <tr> <th data-bbox="995 857 1343 990">Officers whose power are to be exercised</th> </tr> </thead> <tbody> <tr> <td data-bbox="995 990 1343 1197">Superintendent”</td> </tr> </tbody> </table>	Officers whose power are to be exercised	Superintendent”
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GST Updates – GST Technical Updates

Advisory on taxpayers facing issue in filing GSTR-3B

Dated 16-01-2023

According to Hon'ble Supreme Court's directive filing of TRAN forms was made available for aggrieved taxpayers during **01.10.2022** to **30.11.2022**. It has been observed that, in the process of filing TRAN forms, few taxpayers have submitted their forms on the portal but did not finally File it within the specified time. After submitting the Tran Forms, only filing was to be done with e-sign. Further, it is seen that such taxpayers have not raised any ticket for difficulty faced by them in filing Tran Forms. Some taxpayers were also contacted by GSTN and they informed that they do not intend to file TRAN forms. As the TRAN forms of these taxpayers are submitted but not filed, these taxpayers are not able to file their GSTR-3B.

The TRAN filing window has already been closed. Hence, such taxpayers are advised to raise a ticket on **GST Grievance Portal** giving **consent that their TRAN filing status may be reset by GSTN**. Once the consent for resetting their unfiled TRAN forms is received, the TRAN forms will be reset and the taxpayer will be able to file their GSTR-3B.

GST Updates – GST Technical Updates

Advisory on facility of 'Initiating Drop Proceedings' of Suspended GSTINs due to Non-filing of Returns

Dated 16-01-2023

Recently, a functionality of "**Automated Drop Proceedings**" of GSTINs suspended due to non-filing of returns has been implemented on the GST Portal. This functionality is available for the taxpayers who have filed their pending returns i.e. 6 monthly or 2 Quarterly returns.

1. If such taxpayers have filed all their pending returns, the system will automatically drop the proceedings and revoke suspension.
2. If the status of the GSTIN does not automatically turn 'ACTIVE', then taxpayers are advised to revoke the suspension once the due returns have been filed, by clicking on 'Initiate Drop Proceeding' for which navigation is as follows:

"Log on to GST Portal > Services > User Services > View Notices and Orders > Initiate Drop Proceeding"

Note: This functionality is applicable to the taxpayers whose GSTINs have been suspended after 1st December, 2022.

GST Updates – GST Technical Updates

Module wise new functionalities deployed on the GST Portal for taxpayers

Dated 12-01-2023

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. Various webinars are also conducted as well informational videos prepared on these functionalities and posted on GSTNs dedicated YouTube channel for the benefit of the stakeholders.

New Functionalities made available for Taxpayers on GST Portal (May 2022) are provided below:

❖ Registration :

S. No.	Form/Functionality	Functionality made available for Taxpayers
1.	Automation of Drop Proceedings for taxpayers suspended upon issuance of SCN in Form GST REG-17	<ul style="list-style-type: none"> A taxpayer is suspended on the portal if they do not file six or more consecutive monthly returns /quarterly returns (QRMP) for two tax periods in Form GSTR 3B and are issued with a system generated notice for cancellation in Form GST REG-17. This was implemented on the portal w.e.f. October, 2022, for monthly filers and up to the September, 2022 quarter for quarterly filers. If such suspended taxpayers file all their pending returns/statements, the cancellation proceedings get automatically dropped on the portal. A new functionality has been deployed on the portal where the suspended taxpayers can themselves initiate the process of drop proceedings after having filed all pending returns/statements by clicking "Initiate Drop Proceeding" button by navigating Notices/Order after login on their dashboard, if required

GST Updates – GST Technical Updates

❖ Returns :

S. No.	Form/Functionality	Functionality made available for Taxpayers
2.	Re-compute Interest button in Table 5.1 of Form GSTR-3B	<ul style="list-style-type: none"> A RE-COMPUTE INTEREST button has been provided in Table 5.1 of Form GSTR 3B which enables the taxpayers to re-compute interest in case they feel there is any discrepancy in the system computed interest. On click of the RE-COMPUTE INTEREST button, the system will re-compute the interest and update the system generated Form GSTR-3B PDF
3.	Enabling validation at 4-digit HSN declaration in Table-12 of GSTR-1	<ul style="list-style-type: none"> A validation has been implemented in Table-12 of Form GSTR-1 wherein the taxpayers with AATO up-to Rs.5 crores have to mandatorily enter minimum 4 digits of HSN. A warning message shall be displayed if less than 4 digits are entered.
4.	Implementing Sequential Filing of Form GSTR-1 and filing of Form GSTR-1 prior to Filing of Form GSTR-3B	<ul style="list-style-type: none"> From October-2022, tax period onwards, filing of Form GSTR-1 has been made sequential. The system would not allow filing of Form GSTR-1 until the GSTR-1 for the previous return period is filed. This would apply to both Monthly and Quarterly filers. In addition, w.e.f. October-2022 tax period onwards, filing of Form GSTR-1 before filing of Form GSTR-3B for a particular tax period has been made mandatory on the portal. This would apply to both Monthly and Quarterly filers
5.	Validation to check duplicate entries in Form GSTR-2B	<ul style="list-style-type: none"> From the period Sep 2021, onwards, an option was provided to the taxpayers to pull the BoE details in Form GSTR-2B in case it was not populated automatically from ICEGATE using 'Fetch Bill of Entry' Functionality

GST Updates – GST Technical Updates

	<ul style="list-style-type: none"> • However, in absence of a check in the system in some cases the BoE details were getting populated twice in taxpayer's Form GSTR-2B. • A validation has now been implemented on the portal so as to ensure that BoE details do not get populated twice in Form GSTR-2B
6. Turnover threshold validation on filing by composition taxpayers	<ul style="list-style-type: none"> • With effect from FY 2021-22, a validation has been implemented on the portal so as to ensure that a taxpayer whose aggregate turnover exceeds Rs.1.5 crore for goods and/or Rs.50 lacs for goods and services will not be able to file quarterly statement in Form CMP-08 and annual return in Form GSTR-4. An alert message will be displayed on the taxpayer's dashboard in such cases.

❖ Refund :

S. No.	Form/Functionality	Functionality made available for Taxpayers
1.	Label change in Statement 1 of RFD 01 for Refund on account of ITC accumulated due to Inverted Tax Structure	<ul style="list-style-type: none"> • In terms of the notification 14/2022, dated 05.07.2022 the column "Tax payable on such inverted rated supply of goods and services " has been substituted with "Tax payable on such inverted rated supply of goods and services * (Net ITC/ITC availed on inputs and input services)" in statement 1 of Form GST RFD-01 filed for refund on account of ITC accumulated due to Inverted Tax Structure
2.	Removing the validation of return filing of Form GST CMP 08 and Form GSTR 4.	<ul style="list-style-type: none"> • The Composition taxpayers were earlier being prevented from applying for refund on account of Excess payment of tax in cases where they had defaulted in filing statement in Form GST CMP-08 and/or return in Form GSTR-4. This validation has now been removed.

GST Updates – GST Technical Updates

❖ Advance Ruling :

S. No.	Form/Functionality	Functionality made available for Taxpayers
1.	Filing Advance Ruling Application by Unregistered persons.	<ul style="list-style-type: none"> A new functionality has been deployed on the portal to allow the unregistered persons to file an application for advance ruling on the portal. They can submit the application by creating a Temp ID on the GST portal. Earlier such persons could only submit the fee towards advance ruling application but were required to file the application in offline mode.

❖ Enforcement :

S. No.	Form/Functionality	Functionality made available for Taxpayers
1.	Miscellaneous enhancements in enforcement module	<ul style="list-style-type: none"> A functionality has been provided on the Portal for taxpayers to file Request for Adjournment while replying to a Notice or Summon in Enforcement cases. After login, the taxpayers can navigate Services > User Services > View Additional Notices and orders > click here (hyperlinked) > Notices folder > select Reply for Notice to Summon.

CGA Legal GST Webinar

CGA Legal GST Webinar: Analysis of Recommendations and Amendments w.r.t. the 48th GST Council Meeting

Dated 13-01-2023

CGA Legal organized webinar on 13th January 2023 on the topic "**Analysis of Recommendations and Changes w.r.t. the 48th GST Council Meeting**".

Kindly find below the link of the presentation for your ready reference:

https://www.cgalegal.co.in/uploaded_files/article_pdf/article_pdf_1491500646.pdf

Also, the link for the video of the meet is provided below:

<https://www.youtube.com/watch?v=Zwo6mJ6vi9U&t=1s>

GST News

Longer wait for GST tribunals with Council yet to clear proposals

Dated 19-01-2023

Businesses may have to wait longer for quicker resolution of Goods and Services Tax (GST) related disputes under the proposed appellate tribunals, as the Finance Bill 2023 is expected to skip crucial amendments needed in this regard.

The plan to set up GST appellate tribunals (GSTAT) across the country missed a crucial opportunity with the federal tax body, the GST Council, not clearing the proposals at its last meeting on 17th December, a person informed about the Centre-state discussions said.

Read more:

<https://www.livemint.com/news/india/longer-wait-for-gst-tribunals-with-council-yet-to-clear-proposals-11674150136634.html>

GST – Judicial Precedents

1. Demand and Recovery

If the initiation of proceedings itself are bad, the order passed consequent thereto will also be invalid

M/s. Skyline Automation Industries Versus State of U.P. [Allahabad High Court]

Facts: The argument raised by the learned counsel for the petitioner is that in terms of the provisions of Rule 142(1A) of the Central Goods and Service Tax Rules, 2017 is that before passing any order under Section 74 of the Act, a show cause notice in Part A of FORM GST DRC-01A is required to be issued. It is only thereafter that the jurisdiction is vested with the Competent Authority to pass order. In the case in hand, notice in Part A of FORM GST DRC-01A have not been issued, thus, any subsequent proceeding will be without jurisdiction as the petitioner did not have fair opportunity to respond.

Held: Admittedly for initiation of proceedings against the petitioner a notice as provided for under Rule 142(1A) of the Rules in Part A of FORM GST DRC-01A was not issued, which provided for communication of details of any tax, interest and penalties as ascertained by the officer. Any subsequent reminder will not cure inherent defect in proceedings initiated against the petitioner.

Similar view has been expressed by the Delhi High Court in Gulati Enterprises Versus Central Board of Indirect Taxes and Customs & Ors. [2022 (5) TMI 1137 - Delhi High Court] wherein also in identical facts pertaining to a case prior to the amendment of Rule 142(1A) of the Rules with effect from October 15, 2020, the impugned show cause notice was set aside and the matter was remitted back to authority concerned to initiate fresh proceedings in accordance with law - In the case in hand, the only difference being that subsequent thereto an order has also been passed on November 10, 2022, the same will not make any difference. As the initiation of proceedings itself are bad, the order passed consequent thereto will also fall.

The impugned notice dated November 10, 2022 is quashed - Petition allowed.

GST – Judicial Precedents

2. Registration

Delay in filing appeal against the cancellation of registration

M/s. Limra Developers Versus Additional Commissioner [Allahabad High Court]

Facts: On 01.10.2019, the Taxing Authority cancelled the registration of the petitioner. Against the order of cancellation, the appeal was preferred at a delayed stage before the first Appellate Authority on 14.4.2021. The first Appellate Authority has rejected the appeal on the ground of limitation hence the present writ petition.

Held: Without entering into the merits of the case, this Court finds that as the GST regime was introduced PAN India in the year 2017, there was some teething problem in its implementation. The Government was inviting suggestion and making improvement in the functioning of the provisions of the said Act. Looking to the fact that the appeal has been filed by the Assessee-petitioner at a delayed stage and in between the COVID-19 pandemic had intervened, taking sympathetic view, this Court finds that the Assessee cannot be left remediless and the Appellate Authority should have entertained the appeal and decided the same on merits. **The business cannot be hampered and suffered on mere technicalities of law and the Appellate Authority should have considered the appeal on merits.**

The order passed by first Appellate Authority dated 04.09.2021 is unsustainable in the eyes of law and the same is hereby set aside. The matter is remitted back to the first Appellate Authority to reconsider the appeal of the Assessee-petitioner on merits and decide the same strictly in accordance with law without going into the question of limitation, preferably within a period of one month from the date of production of certified copy of this order before him - Petition disposed off.

GST – Judicial Precedents

3. Detention of Goods and Vehicle

Order under Section 129(3) ought to be passed within 7 days from the service of notice

TVL Udhayan Steels Private Limited Vs Deputy State Tax Officer [Madras High Court]

Facts: The present writ petition is filed challenging the impugned order dated 15.12.2022 and the connected Order of Detention in Form GST MOV-06 dated 07.12.2022, on the short ground that the impugned proceedings are barred by the limitation prescribed under Section 129(3) of the GST Act, 2017.

The learned counsel for the petitioner submitted that the authority ought to pass an order of detention prior to the period stipulated viz., 7 days under Section 129(3) of the Act whereas the Order has been passed on the 8th day of issue of notice.

Held: It is submitted by both the counsel for the petitioner and respondent that the order u/s.129(3) of the Act is passed on the eighth day from the date of service of notice, whereas the time line stipulated under Section 129(3) of the Act is that the order ought to be passed within a period of 7 days from the date of service of such notice. Inasmuch as admittedly, the impugned proceedings are beyond the time lines stipulated under Section 129(3) of the Act, the same is fatal to the order in terms of the order of this Court in A. Irudayaraju Versus The State Tax Officer, Salem [2022 (10) TMI 555 - Madras High Court].

The impugned proceedings are set aside and the vehicles/goods in question shall be released forthwith - Petition allowed.



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DISCLAIMER:

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