



# **THE GST BULLETIN**

YOUR INDIRECT TAX KNOWLEDGE PARTNER

**JUNE 2023 ISSUE - I**

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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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## In this Issue.....

S. No.	Particulars
1.	<b>GST Compliance Calendar – June 2023</b>
2	<b>GST Updates</b>
	❖ CBIC Instructions
	❖ GST Technical Updates
3.	<b>GST News</b>
4.	<b>GST Judicial Precedents</b>
	❖ Notice under Section 129(1)(a) of the Act and the order determining penalty under Section 129(3) of the Act issued simultaneously on the same date are not valid [M/s Sangam Wires Versus State of Bihar - Bihar High Court]
	❖ GST on offline/online games such as Rummy – Whether Game of Skill or Game of Chance [Gameskraft Technologies Private Limited versus DGGI - Karnataka High Court]
	❖ Validity of proceedings under Section 74 post passing of Order of un-blocking Electronic Credit Ledger under Rule 86A [D. Ranganathan & Co. versus AC - Madras High Court]
	❖ Cancellation of Registration when no business conducted at the registered place [Star Metal Company versus AC - Allahabad High Court]

## GST Compliance Calendar - June 2023

Date	Types of Return	Period	Types of Taxpayer
10-06-2023	GSTR-7	May 2023	TDS Deductor
10-06-2023	GSTR-8	May 2023	E-Commerce Operator
11-06-2023	GSTR-1	May 2023	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-06-2023	Details of Outward Supplies through Invoice Furnishing Facility [IFF]	May 2023	Taxpayers who are under QRMP Scheme
13-06-2023	GSTR-6	May 2023	ISD
13-06-2023	GSTR-5	May 2023	Non Resident Taxable Person
20-06-2023	GSTR-3B	May 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
20-06-2023	GSTR-5A	May 2023	OIDAR
25-06-2023	GST PMT - 06	May 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.

## GST Instructions

### **Standard Operating Procedure for Scrutiny of Returns for FY 2019-20 onwards**

#### **Instruction No. 26-05-2023 Dated : 26-05-2023**

CBIC has issued the detailed SOP for scrutiny of returns for FY 2019-20 onwards which include the instructions relation to:

- Selection of returns for scrutiny and communication of the same to the field formations;
- Scrutiny Schedule;
- Process of scrutiny by the Proper Officer;
- Timelines for scrutiny of returns;
- Reporting and Monitoring.

The detailed instruction can be accessed with the link provided below:

<https://taxinformation.cbic.gov.in/content-page/explore-instructions>

## GST Technical Updates

### **Advisory on Filing of Declaration In Annexure V by Goods Transport Agency (GTA) opting to pay tax under forward charge mechanism**

**Dated : 30-05-2023**

The GTAs, who commence business or cross registration threshold on or after 1st April, 2023, and wish to opt for payment of tax under forward charge mechanism are required to file their declaration in Annexure V for the FY 2023-24 physically before the concerned jurisdictional authority

The declaration may be filed within the specified time limits, as prescribed in the **Notification. No. 05/2023-Central Tax (Rate), dated. 09.05.2023.**

## **GST Technical Updates**

### **Advisory on due date extension of GST Returns for the state of Manipur**

**Dated : 28-05-2023**

1. Vide Notifications No. 11/2023 – Central Tax, 06/2023 – Central Tax and 13/2023 – Central Tax, all dated 24th May 2023, the Government has extended the due date of filing GSTR-1, GSTR-3B & GSTR-7 of April-2023 tax period till 31st May 2023 for all the taxpayers having principal place of business in the state of Manipur.
2. The said changes have been implemented on the GST Portal from 27th May 2023 onwards.
3. The late fee paid by the taxpayers who have filed their returns before 27th May 2023, shall be credited into their ledgers. The interest amounts, shown in the next return, if any, may be corrected by the taxpayers themselves, as it is an editable field.

## GST News

### Traders, retailers welcome move by CBIC to curb fake GST registrations

**Dated : 01-06-2023**

**Ease of doing business for MSMEs:** Traders and retailers have welcomed the move by the Central Board of Indirect Taxes and Customs (CBIC) to identify fake GST registrations and take appropriate action against offenders. Fake registrations are used to claim the input tax credit (ITC) through invoices without any underlying supply of goods or services.

The 'Special All-India Drive' to detect fake GST identification numbers (GSTINs) is underway since May 15 and will continue till July 15. "This menace of fake registrations and issuance of bogus invoices for passing fake ITC has become a serious problem, wherein fraudulent people engage in dubious and complex transactions, causing revenue loss to the government," the CBIC had said earlier this month.

Read more at: <https://www.financialexpress.com/industry/sme/msme-eodb-traders-retailers-welcome-move-by-gst-authorities-to-curb-fake-gst-registrations/3109362/>



## GST – Judicial Precedents

### 1. Detention of Goods and Vehicle

#### **Notice under Section 129(1)(a) of the Act and the order determining penalty under Section 129(3) of the Act issued simultaneously on the same date are not valid**

##### **M/s Sangam Wires Versus State of Bihar [Bihar High Court]**

**Facts:** The petitioner's vehicle was intercepted on 23.02.2022 at 09:55PM. The e-way bill (EWB) was found to be expired. Since the goods were in movement without a valid e-way bill, the proper officer, under the CGST Act has levied a penalty on the petitioner under Section 129(3) of the Act vide order dated 28.03.2022. The same is preceded by issuance of a notice dated 28.03.2022, directing the petitioner to appear before the proper officer on 05.04.2022 at 11:00AM.

Learned senior counsel for the petitioner has made two fold submissions. First submission is that due to a breakdown of the vehicle, the same could not move through the State of Bihar within the currency of its validity. The bona fides of the petitioner was thus required to be considered. Without doing so, the proper officer could not have imposed the penalty by impugned order dated 28.03.2022.

The second submission is that the notice under Section 129(1)(a) of the Act and the order determining penalty under Section 129(3) of the Act are issued simultaneously on the same date.

**Held:** This Court has gone through the notice under Section 129(1)(a) as well as the order imposing penalty on the same date i.e. 28.03.2022, both these orders have been issued by the proper officer simultaneously. It is ex-facie evident that the notice and order have been recorded simultaneously by the same authority. The order imposing penalty does not record the fact of the petitioner's appearance or hearing prior to passing of the order.

This Court would find that the notice issued under Section 129(1)(a) was nothing more than an empty formality as no time/opportunity has been allowed pursuant to the notice, and immediately, on the same date, penalty has been recorded under Section 129(3). The determination of penalty under Section 129(3) is, therefore, in contravention of the statutory requirement under Section 129 of the Act. The requisite compliance with principles of natural justice, inherent in Section 129(4) has thus been violated.

The order imposing penalty is unsustainable and is hereby quashed. The matter is remanded to the Joint Commissioner of State Tax, Magadh Division, Gaya - Petition allowed.

## GST – Judicial Precedents

### 2. Supply

#### **GST on offline/online games such as Rummy – Whether Game of Skill or Game of Chance?**

##### **Gameskraft Technologies Private Limited versus DGGI [Karnataka High Court]**

##### **Held:**

- Entry 6 in Schedule III to the CGST Act taking actionable claims out of the purview of supply of goods or services would clearly apply to games of skill and only games of chance such as lottery, betting and gambling would be taxable.
- Taxation of games of skill is outside the scope of the term “supply” in view of Section 7(2) of the CGST Act, 2017 read with Schedule III of the Act.
- A game of chance whether played with stakes is gambling but a game of skill whether played with stakes or without stakes is not gambling;
- A game of mixed chance and skill is gambling, if it is substantially and preponderantly a game of chance and not of skill;
- A game of mixed chance and skill is not gambling, if it is substantially and preponderantly a game of skill and not of chance;
- Rummy is substantially and preponderantly a game of skill and not of chance;
- Rummy whether played with stakes or without stakes is not gambling;
- There is no difference between offline/physical Rummy and Online/Electronic/Digital Rummy and both are substantially and preponderantly games of skill and not of chance;
- Online/Electronic/Digital Rummy whether played with stakes or without stakes is not gambling;
- Other Online/Electronic/Digital games which are also substantially and preponderantly games of skill and not of chance are also not gambling;
- The expressions, ‘Betting’ and ‘Gambling’ having become nomen juris, the same are applicable for the purpose of GST also and consequently, the said words, ‘Betting’ and ‘Gambling’ contained in Entry 6 of Schedule III to the CGST Act are not applicable to Online/Electronic/Digital Rummy, whether played with stakes or without stakes as well as to any other Online/Electronic/Digital games which are also substantially and preponderantly games of skill;
- The subject Online/Electronic/Digital Rummy game and other Online/Electronic/Digital games played on the Petitioners’ platforms are not taxable as ‘Betting’ and ‘Gambling’ as contended by the respondents under the CGST Act and Rules or under the impugned show cause notice issued by the respondents.

## GST – Judicial Precedents

### 3. Demand and Recovery

#### **Validity of proceedings under Section 73 / 74 post passing of Order of un-blocking Electronic Credit Ledger under Rule 86A**

##### **D. Ranganathan & Co. versus AC [Madras High Court]**

**Held:** The High Court observed that issuance of Order under Rule 86A while unblocking Electronic Credit Ledger does not invalidate proceedings under Section 73/74 of the CGST Act, 2017 on the same issue.

The Court held that proceedings under Section 73/ 74 can be invoked in any situation where ITC availment seems incorrect. Accordingly, the Court dismissed the Writ Petition.

### 4. Registration

#### **Cancellation of Registration when no business conducted at the registered place**

##### **Star Metal Company versus AC [Allahabad High Court]**

**Facts:** The registration of the petitioner was cancelled on the basis of the survey dated 27.09.2019 with the report that the disclosed business place of the firm was not found and therefore, the firm is bogus. On the said basis, the registration was cancelled on 01.12.2020. The petitioner moved application for revocation of cancellation of the registration on 28.01.2021, but the same was rejected. Thereafter, on 26.04.2021, a show cause notice was issued to the petitioner to show cause as to why the revocation of cancellation of registration may not be rejected.

**Held:** Relying on the judgment of Apparent Marketing Private Limited. Versus State of U.P. and 3 others, held that one of the condition must be satisfied under Section 29(2) of the CGST Act, 2017 for cancellation of GST Registration.

The Court held that the burden of proof lies on the revenue to establish facts warranting cancellation. The Court set aside registration cancellation order.



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