



*Your GST Knowledge Partner*

# **The GST Bulletin**

*Month: April 2022 – Issue-1*

*Date of Issue: 7<sup>th</sup> April 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 Updates - Notifications

Notification No.	Summary of Notifications										
03/2022 – CT dated 31.03.2022	<p><b>Amendment to Notification No. 10/2019-CT dated 07-03-2019</b></p> <ul style="list-style-type: none"> <li>Seeks to prescribe the following class of persons who is even engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed forty lakh rupees is liable for registration:</li> </ul> <table border="1" data-bbox="429 607 1296 1106"> <thead> <tr> <th data-bbox="429 607 676 768">Tariff item, sub-heading, heading or Chapter</th> <th data-bbox="676 607 1296 768">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="429 768 676 899">6815</td> <td data-bbox="676 768 1296 899">Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks</td> </tr> <tr> <td data-bbox="429 899 676 996">6901 00 10</td> <td data-bbox="676 899 1296 996">Bricks of fossil meals or similar siliceous earths</td> </tr> <tr> <td data-bbox="429 996 676 1052">6904 10 00</td> <td data-bbox="676 996 1296 1052">Building bricks</td> </tr> <tr> <td data-bbox="429 1052 676 1106">6905 10 00</td> <td data-bbox="676 1052 1296 1106">Earthen or roofing tiles</td> </tr> </tbody> </table>	Tariff item, sub-heading, heading or Chapter	Description	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks	6901 00 10	Bricks of fossil meals or similar siliceous earths	6904 10 00	Building bricks	6905 10 00	Earthen or roofing tiles
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04/2022 – CT dated 31.03.2022	<p><b>Amendment to Notification No. 14/2019-CT dated 07-03-2019</b></p> <ul style="list-style-type: none"> <li>Seeks to prescribe the class of persons who shall not be eligible to opt for composition Levy, if such person is a manufacturer of the following goods:</li> </ul> <table border="1" data-bbox="415 1396 1279 1922"> <thead> <tr> <th data-bbox="415 1396 662 1558">Tariff item, sub-heading, heading or Chapter</th> <th data-bbox="662 1396 1279 1558">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="415 1558 662 1688">6815</td> <td data-bbox="662 1558 1279 1688">Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks</td> </tr> <tr> <td data-bbox="415 1688 662 1786">6901 00 10</td> <td data-bbox="662 1688 1279 1786">Bricks of fossil meals or similar siliceous earths</td> </tr> <tr> <td data-bbox="415 1786 662 1842">6904 10 00</td> <td data-bbox="662 1786 1279 1842">Building bricks</td> </tr> <tr> <td data-bbox="415 1842 662 1922">6905 10 00</td> <td data-bbox="662 1842 1279 1922">Earthen or roofing tiles</td> </tr> </tbody> </table>	Tariff item, sub-heading, heading or Chapter	Description	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks	6901 00 10	Bricks of fossil meals or similar siliceous earths	6904 10 00	Building bricks	6905 10 00	Earthen or roofing tiles
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## GST Updates - Notifications

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01/2022 – CT (Rate) dated 31.03.2022	<p><b>Amendment to Notification No. 01/2017-CT dated 28-06-2017</b></p> <ul style="list-style-type: none"> <li>Seeks to prescribe the change in rate of tax on following goods from 2.5% to 6%.</li> </ul> <table border="1" data-bbox="429 578 1296 1079"> <thead> <tr> <th data-bbox="429 578 676 741">Tariff item, sub-heading, heading or Chapter</th> <th data-bbox="676 578 1296 741">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="429 741 676 872">6815</td> <td data-bbox="676 741 1296 872">Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks</td> </tr> <tr> <td data-bbox="429 872 676 965">6901 00 10</td> <td data-bbox="676 872 1296 965">Bricks of fossil meals or similar siliceous earths</td> </tr> <tr> <td data-bbox="429 965 676 1021">6904 10 00</td> <td data-bbox="676 965 1296 1021">Building bricks</td> </tr> <tr> <td data-bbox="429 1021 676 1079">6905 10 00</td> <td data-bbox="676 1021 1296 1079">Earthen or roofing tiles</td> </tr> </tbody> </table>	Tariff item, sub-heading, heading or Chapter	Description	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks	6901 00 10	Bricks of fossil meals or similar siliceous earths	6904 10 00	Building bricks	6905 10 00	Earthen or roofing tiles
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02/2022 – CT (Rate) dated 31.03.2022	<p><b>Seeks to provide exemption in rate on certain goods w.r.t specified conditions</b></p> <ul style="list-style-type: none"> <li>Seeks to provide exemption on following goods in excess of the rate specified below on the condition that:             <ol style="list-style-type: none"> <li>credit of input tax charged on goods or services used exclusively in supplying such goods has not been taken; and</li> <li>credit of input tax charged on goods or services used partly for supplying such goods and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such goods is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.</li> </ol> </li> </ul>										

## GST Updates - Notifications

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02/2022 – CT (Rate) dated 31.03.2022	Tariff item, sub- heading, heading or Chapter	Description	Rate
	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks	3%
	6901 00 10	Bricks of fossil meals or similar siliceous earths	3%
	6904 10 00	Building bricks	3%
	6905 10 00	Earthen or roofing tiles	3%

## GST News

### **GST collections hit all-time high at Rs 1.42 lakh crore**

**Dated 02-04-2022**

Marking a new high since its rollout in July 2017, gross collections of Goods and Services Tax (GST) rose to Rs 1.42 lakh crore in March, for sales in February, according to data released by the Union Finance Ministry on Friday – a 14.7 per cent rise from March 2021 and a 45.6 per cent spike from March 2020.

The sharp surge has come on the back of anti-evasion measures, “especially action against fake billers”, and a pick-up in economic activity. The average monthly gross GST collections for FY22 now stands at Rs 1.23 lakh crore, which is 30.5 per cent higher than the monthly average seen in the previous fiscal.

For detailed news, kindly follow the link below:

<https://indianexpress.com/article/business/economy/gst-collections-hit-all-time-high-of-rs-1-42-lakh-crore-7847074/>

## GST – Judicial Precedents

### 1. Authority for Advance Rulings

**If a recipient obtains an Advance Ruling on the value to be adopted of his inward supply, the supplier is not bound by that Advance Ruling**

#### **A. Nirmala [AAR TamilNadu]**

**Facts:** The applicant has stated that she, along with her sisters have inherited the property from her late father. They have entered into a Joint Development agreement with the developer, M/s Nu Tech Associates dated 10.04.2019. As per the Joint Development agreement, the developer should develop 6 Nos of Flats and the applicant was entitled to 1255 sq.ft of Super Built-up area in the Second Floor of the premises and another 1255 Sq.ft by virtue of her being guardian to another Sister. The developer is entitled to 2 Nos of Flats out of 6 Nos of Flats. Applicant sought AAR “what should be the taxable value in respect of the supply of construction services provided by the developer to the applicant as per Clause (b) of the notification No.4/2018”?

**Held:** We find that the applicant is a recipient of services and has raised the questions as a recipient of services. Section 98 of the Act, prescribes the procedure to be followed on receipt of the application and it clearly states that prima-fade, on receipt of the application, the authority should examine its admissibility after extending an opportunity of hearing to the applicant - if a recipient obtains a ruling on the value to be adopted of his inward supply of goods or services, the supplier of such goods or services is not bound by that ruling and he is free to assess the supply according to his own determination, in which case, the ruling loses its relevance and applicability even. Thus, only a supplier and not the recipient is eligible to seek an advance ruling and therefore the subject application cannot be admitted as per the provisions of Section 95 of the CGST Act - application rejected as not admissible.



## GST – Judicial Precedents

### 2. Blocking of Electronic Credit Ledger

**Rule 86A is not the rule which entitled the proper officer to make debit entries in the electronic credit ledger of the registered person – Judgment reaffirmed by Gujarat High Court**

#### **Milap Scrap Traders through pro. Harshadbhai Manubhai Patel versus State/ Commercial Tax Officer [Gujarat High Court]**

**Facts:** The petitioner is before the Court seeking to unblock the Input Tax Credit (ITC) in the petitioner's Electronic Credit Ledger, which reflects the balance to negative figure of ₹ 14,11,678/-. His grievances when expressed before the authority are not replied till date, no show cause notice has been issued. Invocation of Rule 86 A of the CGST Rules, 2017 is strongly objected to on the ground that there has to be a credit of Input Tax available in the Electronic Credit Ledger.

**Held:** Honorable Gujarat High Court in the case of **Samay Alloys India Pvt. Ltd. Versus State Of Gujarat** held that Rule 86A is not the rule which entitled the proper officer to make debit entries in the electronic credit ledger of the registered person. The rule merely allows the proper officer to disallow the registered person debit from the electronic credit ledger for the limited period of time and on a provisional basis.

By referring to the above Judgment, the Honorable Court held that the respondents are directed to withdraw the negative block of the electronic credit ledger at the earliest. Whatever balance remained in the electronic credit ledger after the removal of the balance to negative figure, the same shall not be utilized by the writ applicant till the show cause notice is issued if any under Section 73 or 74 respectively of the C.G.S.T. Act. Once the negative block is removed, the writ applicant shall proceed to file his returns with appropriate tax, penalty and interest, that may be determined in accordance with law.

## GST – Judicial Precedents

### 3. Classification

#### Classification and exemption on Road Transport Services

##### Gujarat State Road Transport Corporation [AAR Gujarat]

**Facts:** GSRTC submits that it is mainly engaged in the passenger transportation services. GSRTC entered agreement with M/s Ashapura Trade and Transport Private Limited to provided space in its buses, on top of the bus as well as in bus cabin, for transporting parcels of Ashapura. The parcels booked by Ashapura and transported by the buses run by GSRTC from one station to another station which comes in its (bus route) scheduled route. GSRTC submits that it is not issuing any consignment note, nor is engaged in door to door delivery of the parcels booked by Ashapura. For the transportation of said parcels, GSRTC receives consideration as per the agreement. GSRTC submits that the said activity is exempt in terms of Sr No 18 of Notification No 12/2017-Central Tax (Rate) which reads Services by way of transportation of goods by road except the services of a goods transportation agency and a courier agency is exempt.

**Held:** It is found from the agreement is that GSRTC's services to Ashapura is supporting the business of Ashapura, by transporting the parcels of Ashapura from one destination to other, wherein Ashapura is both the consignor and consignee at the respective bus stations. Ashapura utilises the services of GSRTC for enabling Ashapura for door to door delivery of parcels - the specific activity of GSRTC supplying parcel office space/cabin/shed to Ashapura falls under the category of infrastructural support services which is a subset of Business Support Services.

Thus, GSRTC is not a Courier Agency as it is not involved in door to door transportation of goods/articles/documents. Further, GSRTC is also not a GTA as it does not issue consignment note and issues parcel receipt. Thus, GSRTC supplies Business Support Service to its recipient - SAC is 998599, covering Other Support Services. GST rate being 18% - GSRTC is neither a GTA nor a courier agency.

## GST – Judicial Precedents

### 4. Exemption

#### Exemption on Educational services provided to Schools

##### **M/s. Educational Initiatives Pvt. Ltd. Versus Union of India [Gujarat High Court]**

**Facts:** The writ-applicant has entered into contracts with various schools to provide education upto the higher secondary school. The schools have made it mandatory for their students to take up the Assessment of Scholastic Skill Through Educational Testing (ASSET) exams, which are being conducted by the schools in their own premises and the marks obtained in the ASSET are considered and given due weightage to the students ASSET score in the semester and the final examination results. The writ-applicant would set and prepare the question papers which are either paper version or online version. The evaluation of the answers is done by the writ-applicant. The students are enrolled with the schools.

The writ-applicant filed an application under Section 97 of the CGST Act, 2017 and Section 96 of the GGST Act, 2017 respectively for Advance Ruling in the Form GST ARA-01. The writ-applicant sought a declaration from the Gujarat Authority for the Advance Ruling (GAAR) that the services provided by it to the schools/education organizations in relation to the ASSET examination is exempted from the payment of the GST under the Entry No.66(b)(iv) of the Notification No.12/2017-Central Tax (Rate) dated 28th June 2017 as well as the equivalent SGST under the Entry No.69(b)(iv) of the Notification No.9/2017-Integrated Tax (Rate) dated 28th June 2017.

The GAAR and Appellate Authority denied exemption on these services. Aggrieved by the above mentioned Rulings, writ applicant approached the Court.

**Held:** The term 'education' has not been defined. The Supreme Court, in the case of Sole Trustee, Loka Shikshana Trust Versus Commissioner Of Income-Tax, Mysore, has explained the term 'education' as a process of training and developing knowledge, skill, mind and character of students by formal schooling. The word 'education' cannot be given a natural meaning by restricting it to the actual imparting of education to the students but should be given a wider meaning which would take within its sweep all the matters relating to imparting and controlling education. Examination is an essential component of education as it is one of the major means to assess and evaluate the skills of a candidate and the knowledge, be it a school test, university examination, professional entrance examination or any other examination.

## GST – Judicial Precedents

### 4. Exemption

#### Exemption on Educational services provided to Schools

#### **M/s. Educational Initiatives Pvt. Ltd. Versus Union of India [Gujarat High Court]**

.....*Continued from above*

When the appellate authority says that the schools are not conducting the ASSET, or rather, the schools are facilitating the writ-applicant to conduct the ASSET, for which the schools get some remuneration towards the administration cost, it is thereby trying to erroneously convey that instead of the writ-applicant providing services to the schools, the schools are providing services to the writ-applicant, for which the schools receive 'administration cost' - Indisputably, the question papers are set by the writ-applicant and the answers given by the students are assessed by the writ-applicant and the result of the ASSET is also prepared by the writ-applicant. The basic nature of the ASSET service is an examination to be conducted by the Educational Institution (School) but outsourced to the Educational Initiatives (EI). The observations made by the AAR in para 21.1 of its order clinches the issue.

It is now well-settled that even in tax statutes, an exemption provision should be liberally construed in accordance with the object sought to be achieved if such provision is to grant incentive for promoting education or otherwise has some beneficial reason behind it. The exemption notification should be given a literal meaning - the exemption notification must be construed having regard to the purpose and object it seeks to achieve. The notification in the case on hand should be read as a whole.

There need not be any further debate on the question, whether the services provided by the writ-applicant to the schools, which are educational institutions, fall within the meaning of the aforesaid notifications. The services, definitely fall within the two notifications referred.

Writ application allowed.

## GST – Judicial Precedents

### 5. Refund

#### Refund of ITC under Inverted Duty structure where input and output supplies are same

##### **M/s. Shivaco Associates Versus Joint Commissioner of State Tax, Directorate of Commercial Taxes [Calcutta High Court]**

**Facts:** The petitioners are engaged in the business of purchasing LPG gas in bulk through tanker and thereafter bottling the same in bottles / cylinders of 4kgs, 6kgs, 14kgs, 17kgs and 21kgs and sell the same to commercial customers on GST applicable at the rate of 18% and to the domestic customers at the rate of 5%.

Prior to 25.01.2018 the input and output tax on liquefied petroleum gases to commercial as well as domestic consumers was 18%. By a notification dated 28.06.2018, the rate of output tax on domestic LPG has been reduced to 5%. The petitioners claim refund of the unutilized ITC accumulated on account of inverted tax structure as the rate of tax on inputs is higher than the rate of tax on output supply.

The prayer of the petitioners for refund stood rejected by the adjudicating authority relying on Circular No. 135/2020-GST dated 31.03.2020 wherein it has been mentioned that the tax-payers cannot claim refund in terms of clause (ii) of Section 54(3) of the CGST Act, 2017 in cases where the input and output supplies remain the same.

**Held:** Any circular issued under Section 168(1) of the Act is only for the purpose of bringing uniformity in the implementation of the Act. The intention of the legislature as expressed in Section 54(3) of the Act is clear and unambiguous. The Section, in absolute uncertain terms, mentions that refund of any unutilized input tax credit may be claimed where credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. The Act does not restrict refund only in respect of supplies which are different at the input and output stage. The Board thought it fit to reduce the tax in respect of domestic consumers with effect from 25.01.2018 and there is no reason as to why the benefit of accumulated input tax credit will not be passed on to the petitioners - The circular dated 31.03.2020 is imposing a restriction to release certain benefits which are provided under the Act.

## GST – Judicial Precedents

### 5. Refund

#### Refund of ITC under Inverted Duty structure where input and output supplies are same

##### **M/s. Shivaco Associates Versus Joint Commissioner of State Tax, Directorate of Commercial Taxes [Calcutta High Court]**

.....*Continued from above*

By way of the circular, the Board is curtailing the said benefit and making refund permissible only if the input and output supplies are different. The same amounts to overreaching the provisions as laid down in the Act - It cannot be said that the legislature was unmindful of the fact that there may be instances where the input and output supplies are the same. On the contrary, it can be said that the legislature consciously did not create any distinction for allowing refund in all cases where the input tax is more than the output tax. The said benefit is applicable to all similar cases.

The respondent authority ought not to reject the claim of the petitioners relying on the circular as the prayer made by the petitioners is permissible under the Act - it is held that the petitioners will be entitled to the refund as claimed - Petition disposed off.

# CONTACT US



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