



THE GST BULLETIN

**YOUR INDIRECT TAX
KNOWLEDGE PARTNER**

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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
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GST Compliance Calendar - February 2024

Date	Types of Return	Period	Types of Taxpayer
10-02-2024	GSTR-7	January 2024	TDS Deductor
10-02-2024	GSTR-8	January 2024	E-Commerce Operator
11-02-2024	GSTR-1	January 2024	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-02-2024	GSTR-1	January 2024	Turnover up to INR 5 Crores and under QRMP Scheme
13-02-2024	GSTR-6	January 2024	ISD
13-02-2024	GSTR-5	January 2024	Non Resident Taxable Person
20-02-2024	GSTR-3B	January 2024	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
20-02-2024	GSTR-5A	January 2024	OIDAR
25-02-2024	GST PMT -06	January 2024	Taxpayer who has opted for QRMP Scheme has to deposit tax using form GST PMT-06 by the 25 th of the following month, for the first and second months of The quarter.
29-02-2024	Amendment in Electronic Credit and Re-claimed Statement	NA	Taxpayers required to file GSTR-3B

GST Updates – GST Technical Update

Advisory for furnishing bank account details by registered taxpayers under Rule 10A of the Central Goods and Services Tax Rules, 2017.

Dated: 23-01-2024

Mandatory Bank Account Details Submission as per law: All Registered Taxpayers are required under the provisions of CGST Act, 2017 and the corresponding Rules framed thereunder to furnish details of their bank account/s within 30 days of the grant of registration or before the due date of filing GSTR-1/IFF, whichever is earlier.

1. Failure to furnish the bank account in the stipulated time:

- a) Taxpayer Registration would get suspended after 30 days and intimation in FORM REG-31 will be issued to the Taxpayer.
- b) Get the Taxpayer debarred from filing any further GSTR-1/IFF.

2. Revocation of Suspension: If the taxpayer updates their bank account details in response to the intimation in FORM REG-31, the suspension will be automatically revoked.

3. Cancellation of Registration: If the bank account details are not updated even after 30 days of issuance of FORM REG-31, the registration after suspension may also be taken up for cancellation process by the Officer.

GST Updates – GST Technical Update

Withdrawal of Block on Generation of E-Way Bills without e-Invoice/IRN

Dated: 10-01-2024

On January 10, 2023, the decision to block the generation of E-Way Bills without e-Invoice/IRN has been withdrawn, according to the GST E-way bill system update.

Earlier an update was notified of Blocking of E-Way Bill on the GST Portal. It was said that " Blocking of E-Way Bill generation without E-Invoice/ IRN details for B2B and Exports for E-Invoice enabled taxpayer w.e.f. 1st March 2024. This is being done for maintaining consistency between the E-way Bill and E-invoice Statement/ Data."

GST Updates – Key Highlights of Union Budget 2024

Key Highlights of Union Budget 2024

Dated: 01-02-2024

FM proposes to retain same tax rates for Indirect Taxes and import duties. However, there are certain changes that have been proposed via Finance Bill, 2024 in CGST Act, 2017:

- Definition of Input Service Distributor have been proposed to be amended to include the recipient of Inward Supplies chargeable under reverse charge as per Section 9(3) and 9(4) of CGST Act for or on behalf of distinct persons.
- The manner of distribution of ITC by an ISD as provided under Section 20 of the CGST Act, 2017 has been suitably proposed to be amended to provide that an ISD shall be eligible to distribute the ITC on inward supplies chargeable under reverse charge as per Section 9(3) and 9(4) of CGST Act.
- Any office of the Registered Person involved in the supplies of goods or services or both which receives tax invoices towards the receipt of input services shall be mandatorily required to be registered as ISD and then distribute the ITC to distinct persons.
- Time limit and conditions for distribution of ITC by ISD will be prescribed in Rules.
- Facility shall be provided for distribution of ITC of CGST as CGST or IGST and the ITC of IGST as IGST or CGST at the option of ISD transferring the ITC to distinct person.
- New Section 122A has been proposed to be inserted prescribing Penalty for not failure to register machines used in manufacture of goods as per special procedure.

GST – Judicial Precedents

1. Registration

Validity of retrospective cancellation of GST registration of the petitioner due to non-filing of returns for a continuous period of six months

Ramesh Chander Vs Assistant Commissioner [Delhi High Court]

Fact: A show cause notice was issued to the petitioner on 07.04.2022. Though the notice does not specify any cogent reason, there is an observation in the notice stating failure to furnish returns for a continuous period of six months.

The order further states that effective date of cancellation of registration is 01.07.2017 i.e. a retrospective date. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation.

Held: In terms of Section 29(2) of the Central Goods and Services Tax Act, 2017, The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

GST – Judicial Precedents

2. Appeals

Despite paying 20% of the tax in dispute, the tax authorities issued a demand and forcibly recovered the full balance - GST Appellate Tribunal is not constituted

National Insurance Co. Ltd. Versus The State Of Bihar [Patna High Court]

Facts: An appeal filed by the assessee/petitioner against the order of assessment dated 17.02.2022 was rejected. There was no Appellate Tribunal constituted as provided under Section 109 of the Bihar Goods and Services Tax Act. Even in that circumstance, the assessee paid up 20% of the tax in dispute being Rs. 5.70 crores as per Section 112(8) of the Central Goods and Services Tax Act, 2017 on 21.10.2022. At the time of filing of the appeal, admittedly, 10% of the tax in dispute was paid, which is mandated for the institution of a proper appeal before the first Appellate Authority. Despite the payment of 20% of the tax in dispute having been made after the first Appellate Authority rejected the appeal, a demand was issued at 05.01.2023. Apprehending coercive action, the petitioner, a public sector undertaking filed the above writ petition on 06.01.2023. The tax authorities, presumably, in retaliation recovered the entire balance remaining payable, under Section 79 of the Central Goods and Services Tax Act, 2017 on 07.01.2023.

Held: In the case of Sita Pandey v. State of Bihar and Ors. [2023 (9) TMI 272 - PATNA HIGH COURT], it was directed to refund the tax recovered and also a cost was imposed on the Assessing Officer, who acted peremptorily that too against the statutory provision. In the present case, it is also directed that the entire amounts recovered as on 07.01.2023, be refunded to the assessee within a period of two weeks from today, failing which interest shall run at the rate of 12 per cent per annum. If the amounts are satisfied within two weeks, as directed hereinabove, it is made clear that if eventually the demand is confirmed against the assessee, there shall not be any interest claimed under the statute between the date on which the amounts were credited by the bank and the date of refund as directed hereinabove; since the State had the benefit of the amounts in its coffers. A cost of Rs. 5000/- imposed on the Officer, who issued the demand produced as Annexure-16 and appropriated the money from the bank account of the assessee/petitioner. Petition allowed.

GST – Judicial Precedents

3. Input Tax Credit

Whether the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment against the debt created on outward supplies to these vendors.

M/s. Paragon Polymer Products Pvt. Ltd. [AAR, West Bengal]

Facts: The applicant is stated to be engaged in the business of trading of footwear in the state of West Bengal in the brand name of 'Paragon'. The applicant intends to manufacture footwear through independent outsource units under sale and buyback model where raw materials for production will be sold by the applicant to the outsourced vendors and the applicant will buy back the manufactured goods from the said vendors. The applicant expresses its willingness to settle these mutual debts through book adjustments and the net dues through bank transfer. The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following question vide serial number 14 of the application in FORM GST ARA-01 as to:

In case of sale and buyback transactions, whether the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment against the debt created on outward supplies to these vendors.

Held: The second proviso to sub-section (2) of section 16 of GST Act restricts credit of input tax to the recipient unless he pays the consideration to the supplier for inward supplies received by him along with tax payable thereon within the stipulated time of one hundred and eighty days from the date of issue of invoice. The term 'consideration' has been defined in clause (31) of section 2 of the GST Act in an inclusive manner that extends the scope and range for mode of payment. Further, as per the said definition, it is immaterial whether the payment is made by the recipient or by any other person. Further, when there is barter of goods or services, the same activity constitutes supply as well as a consideration.

Thus, the settlement of mutual debts through book adjustment is a valid mode of payment under the GST Act. Recipient can pay the supplier by way of setting book debt since the provision of the Act has not put any restriction in this regard. Therefore, claiming credit of input tax cannot be denied on the sole ground that consideration is paid through book adjustment.

GST – Judicial Precedents

4. Rectification of Order

Power of rectification of errors apparent on the face of record - Power to review versus Power to rectify

Sajal Kumar Das Versus State Of West Bengal & Ors. [Calcutta High Court]

Facts: The subject-matter in issue was regarding cancellation of the appellant's registration, which was done by the original authority by order dated 10th January, 2022. As against the said order, an appeal was preferred and the appeal was allowed by order dated 9th November, 2022. After about 2 and ½ months, an application was filed by the original authority viz. the Assistant Commissioner of Revenue, Bowbazar Charge under Section 161 of the W.B.G.S.T. Act to rectify the order passed in the appeal petition dated 9th November, 2022. The said application has been allowed by the appellate authority by order dated 23rd August, 2023 digitally signed on 24th August, 2023. The legal issue, which requires consideration in this appeal is as regards the scope of Section 161 of the Act. The language adopted in Section 161 of the W.B.G.S.T. Act is in pari materia with the language Order 47 Rule 1 of the Code of Civil Procedure, which also provides for review of an order made on account of some mistake or error apparent on the face of the record.

Held: The Hon'ble Supreme Court in SASI (D) through L. RS. Versus Aravindakshan Nair and Ors. [Supreme Court] has held that, "mere erroneous decision is distinguished from decision which could be characterised as vitiated by error apparent." It was further held that: "review of an order is permissible, if any, grounds mentioned under Order 41 Rule 1 is made out. Review is not appeal in disguise, where erroneous decision re-heard and corrected but lies for patent error. Error which is not self-evident and has to be detected by process of reasoning, can hardly be called as error apparent on the face of record." That apart, if the power of rectification as mentioned in Section 161 is to be construed as a power to review an earlier decision, then the statute mandates that the authority should be able to point out the error, which is apparent on the face of the record in a decision taken by him on November 9, 2022. Unfortunately, the order passed by the appellate authority dated 23rd August, 2023 digitally signed on 24th August, 2023 does not point out any error, which is apparent on the face of the record. The order suffers from illegality inasmuch as the appellate authority has rewritten its earlier order, which is impermissible in exercise of its powers under Section 161 of the Act - Petition allowed.



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