

# **CGA Legal**

*Your GST Knowledge Partner*



## **The GST Bulletin**

*Month: March 2021*

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## GST Compliance Calendar - April 2021

Statutory Due Date	Type of Return & Tax Period	Period	Type of Taxpayer
10-04-21	GSTR-7	March-2021	TDS Deductor
10-04-21	GSTR-8	March-2021	E-Commerce Operator
11-04-21	GSTR-1	March-2021	Taxpayers opted for monthly filing
13-04-21	GSTR-1	January to March 2021	Taxpayer who are under QRMP Scheme
13-04-21	GSTR-6	March-2021	ISD
18-04-21	CMP-08	January to March 2021	Composition Dealer
20-04-21	GSTR-3B	March-2021	Taxpayers opted for Monthly Filing
20-04-21	GSTR-5	March-2021	Non-Resident Taxable Person
20-04-21	GSTR-5A	March-2021	OIDAR
22-04-21	GSTR-3B	January to March 2021	Taxpayers opted for QRMP Scheme, having aggregate turnover upto Rs 5 Cr for *Category A States
24-04-21	GSTR-3B	January to March 2021	Taxpayers opted for QRMP Scheme, having aggregate turnover upto Rs 5 Cr for **Category B States

## GST Compliance Calendar - April 2021

Statutory Due Date	Type of Return & Tax Period	Period	Type of Taxpayer
25-04-21	ITC-04	January to March 2021	Registered person sending goods for Job work
30-04-21	GSTR-4	FY 2020-21	Annual Return Composition Taxable Person
30-04-21	Opting in / out of QRMP Scheme	April – June 2021	Registered person having aggregate turnover upto Rs 5 crores

**Note : Categories of Taxpayers whose Aggregate Turnover is upto INR 5 crore for the purpose of filing GSTR-3B:**

**\*Cat A:**

Regular Taxpayers having an aggregate turnover of upto INR 5 crores whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

**\*Cat B:**

Regular Taxpayers having an aggregate turnover of upto INR 5 crores whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.

## GST Updates - Notifications

S. No.	Notification No.	Summary of Notifications
1.	06/2021-CT dt. 30.03.2021	<p><b>Extension of Waiver of penalty for non-compliance of the provisions of Dynamic Quick Reference (QR) Code till 30-06-2021</b></p> <p>Reference NTN 14/2020 –CT dt 21-03-2020, Registered person whose Aggregate Turnover in any preceding financial year from 2017-18 onwards exceeds INR 500 crs other than other than those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of said rules, and registered person referred to in section 14 of the IGST Act, 2017, are required to have Dynamic QR Code on all their invoices in respect of B2C Transactions.</p> <p>The aforesaid notification came into force on 01-01-2020. However, later Government waived penalty for its Non-Compliance till 31<sup>st</sup> March 2021. Now effective NTN 06/2021, the waiver of penalty is extended till 30-06-2021.</p>
2.	05/2021-CT dt. 08.03.2021	<p><b>E-invoicing for the taxpayers having aggregate turnover exceeding ₹ 50 Cr from 01st April 2021.</b></p> <p>Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 50 Cr from 01.04.2021.</p>

## GST Updates – CBIC Instructions

### Clarification in respect of certain refund related issues

#### CBIC Circular No. 147/02/2021 Dated: 12-03-2021

##### Clarification in respect of refund claim by recipient of deemed export supply

Circular 125/44/2019-GST dated 18/11/2019 placed a condition that the recipient of deemed export supplies for obtaining the refund of tax paid on such supplies shall submit an undertaking that he has not availed ITC on invoices for which refund has been claimed. However, while filing claim for refund, the system requires debit of the amount so claimed from the electronic credit ledger of the recipient.

Thus, this circular clarified that recipient can avail ITC when the claim of refund is to be filed by the recipient of deemed export supply.

##### Extension of relaxation for filing refund claim in cases where zero-rated supplies has been wrongly declared in Table 3.1(a)

Circular 125/44/2019-GST dated 18/11/2019 allowed processing of refund claim for period July 2017 to June 2019 where taxpayers had inadvertently entered the details of export of services or zero-rated supplies to a Special Economic Zone Unit/Developer in table 3.1(a) instead of table 3.1(b) of FORM GSTR-3B of the relevant period and were unable to claim refund of the integrated tax paid on the same through FORM GST RFD-01A.

In this regard, it is now clarified that for the tax periods commencing from 01.07.2017 to 31.03.2021, such registered persons shall be allowed to file the refund application in FORM GST RFD-01 on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.”

##### Manner of calculation of Adjusted Total Turnover under Rule 89(4) of CGST Rules

Vide Notification No. 16/2020-Central tax dated 23.03.2020, definition of turnover of zero rated supply of goods was restricted to be lower of 1.5 times the value of goods domestically supplied or similarly placed supplier or the actual value of goods supplied.

There was a confusion prevailing as to what should be the value of zero rated supply of goods be taken in adjusted total turnover (i.e. the denominator). The circular clarified that the value of zero rated supply in adjusted total turnover should be the same as the value of turnover of zero rated supply of goods as amended for refund purpose.

For more information/ procedure about such refund related issues kindly refer the detailed Circular.

## GST Updates

### **Finance Act, 2021**

**Date: 28-03-2021**

The Finance Bill, 2021 has received the assent of the President, Shri Ram Nath Kovind, on 28th March 2021 and become 'Finance Act, 2021'. However, the changes relating to GST shall come into force from the date to be notified later on.

### **Foreign Trade Policy 2015-2020 extended upto 30th September 2021:**

**Date: 28-03-2021**

The DGFT has issued Notification No. 60/2015-20 dated 31-03-2021 vide which the government extended the existing foreign trade policy (FTP) for six more months. The current policy will now be valid upto September 30, instead of March 31, 2021. This has been done to push economic growth and create jobs amid the Corona Virus outbreak in the Country.

## GST Videos - CGA Legal Live Meet

### Year End Deliverables for FY 2020-21

**Date: 25-03-2021**

CGA Legal has organized a Live Session on Year End Deliverables for FY 2020-21 and Latest Changes in GST on 25th March 2021 in order to discuss the various Indirect Tax year end deliverables for FY 2020-21 and its implications on our business and day to day working.

The session was highly successful and has seen great interaction by various participants.

In case you have missed, kindly find attached the link of the video;

[Our Videos | GST Experts \(cgalegal.co.in\)](#)

<https://www.cgalegal.co.in/home/videos.php>

We are also attaching the presentation along with the Newsletter for your ready reference.



## GST Technical Updates – GSTN

### Payment of Tax by Taxpayers under QRMP Scheme, for the month of March 2021

**Date: 08-04-2021**

GSTN has issued advisory for payment of Tax for all taxpayers who are under QRMP Scheme. As per the Advisory;

#### **Payment of Tax for first two months of a quarter (M1 & M2 i.e. for January and February month for Jan-March Quarter):**

- While generating the challan, taxpayers must select “Monthly payment for quarterly taxpayer” as reason for generating the challan.
- They can choose either of the following two options to generate the Challan:
  - **35% Challan (Fixed Sum Method):** For taxpayers opting for this method, portal will generate a pre-filled challan in Form GST PMT-06, for an amount equal to 35% of the tax paid in cash, in the preceding quarter, if the return was furnished quarterly or equal to the tax paid in cash in the last month of the immediately preceding quarter, if the return was furnished monthly.
  - **Challan on a self-assessment basis (Self-Assessment Method):** These taxpayers can pay tax due by considering the tax liability on inward and outward supplies and the input tax credit as available, in FORM GST PMT-06.

Note: The aforesaid options are not available for payment of tax for third month (M3) of the quarter to persons availing QRMP Scheme

#### **Payment of Tax for third month of a quarter (M3 i.e. for March month for Jan-March Quarter):**

For third month of the quarter (M3), taxpayers can click button ‘Create Challan’ in Payment Table 6 of Form GSTR-3B and file GST-PMT-06 Challan, for depositing any amount towards their tax liability

## GST Technical Updates – GSTN

### Auto-population of e-invoice details into GSTR-1

**Date: 06-04-2021**

For the month of March 2021, the auto-population of e-invoices into GSTR-1 (of March 2021) is still in progress and is likely to take some more time.

Hence, notified taxpayers who are reporting e-invoices, are hereby advised not to wait for the complete auto-population, and instead proceed with preparation and filing of GSTR-1 for March 2021 (by the due date), based on actual data as per their records.

### Selection of Business Activity

**Date: 16-03-2021**

Taxpayers are required to select their business activity only once, as - Manufacturer, wholesaler/Distributor/Retailer, service providers & others post login based on highest turnover amongst them. It can be changed later

### Opting-in for Composition Scheme for Financial year 2021-22

**Date: 24-03-2021**

The eligible registered taxpayers, who want to opt-in for composition scheme for the FY 2021-22, need to file FORM GST CMP-02 application, on or before 31st March, 2021.

The taxpayers may navigate as follows:

Log-in>Services > Registration > Application to opt for Composition Levy>Filing form GST CMP-02>File application under DSC/EVC

Once Form GST CMP-02 application is filed, the composition scheme will be available to the taxpayer, w.e.f. 1st April 2021.

## GST Technical Updates – GSTN

### Filing GSTR-1 (Q) for Jan-Mar 2021 under QRMP Scheme

**Date: 31-03-2021**

The taxpayers under QRMP scheme have a facility to file Invoice Furnishing Facility (IFF) in first two months of the quarter and file Form GSTR-1 in third month of the quarter. As IFF is an optional facility, it cannot be filed after the end date (13th of the month succeeding the IFF period). The document saved in IFF, where taxpayer has not filed by the end date, cannot be filed anymore. Hence, taxpayers are requested to declare such document in the GSTR-1 for the quarter. Hence, before filing of GSTR-1 for Jan-Mar-2021 quarter, the taxpayer must ensure that:

1. **Any saved but not Filed/Submitted IFF records** for the first two months of the quarter i.e. month of Jan-2021 or Feb-2021 must be deleted using RESET button before filing GSTR-1 for Jan-Mar-2021 quarter. The deleted records should be added in GSTR-1 for Jan-Mar-2021 quarter after deleting the saved records from IFF. In future this may not be required as invoices already saved in any of the months on the quarter may be either deleted/moved to quarterly GSTR-1 by a functionality to be introduced shortly.
2. **Any submitted but not filed IFF** for the month of Jan-2021 or Feb-2021 must be filed before filing GSTR-1 for Jan-Mar-2021 quarter.

## GST Technical Updates – GSTN

### New functionalities deployed on the GST Portal for taxpayers

Date: 06-04-2021

**Disabling entering Aadhaar number by Taxpayers/Applicants in registration application:** The field for entering Aadhaar number has been disabled for:

- Taxpayers in following scenarios.
  - While adding Authorised Signatory/Authorised Representative through Non-Core amendment of registration.
  - While adding Promoter/ Partner through Core amendment of registration.
- Applicants/ taxpayers adding details of Authorised Representative in New Registration application.

**Download of Table 5 data, after filing, enabled for Form GST ITC-04:** Registered manufacturers who are required to file quarterly Form GST ITC-04, can now download the data of Table 5 of Form GST ITC-04 (on the GST Portal), after filing the Form, when there is change in the state code, due to merger or creation of a State/ UT. This is to download data, when there is change in State/ UT code, before the goods are received back.

**Filing of refund application in Form GST RFD-01, by exporter of services (with payment of tax), in cases of Foreign exchange fluctuations:** The system earlier validated the refund amount claimed by the exporter of services (with payment of tax), against the proceeds realised (against exports, as submitted by the claimant in form of FIRC). If the value realised mentioned in BRC/FIRC column, was less than the refund amount claimed, then such taxpayers were not allowed to file their refund application on GST Portal. This validation has now been removed and taxpayer will be able to file refund application now in such cases (As the value realised in BRC/FIRC may fluctuate due to foreign exchange fluctuations and net realisation may be less than the refund amount).

## GST Technical Updates – GSTN

### New functionalities deployed on the GST Portal for taxpayers

Date: 06-04-2021

**Audit related functionalities made available to taxpayers:** All notices and report issued by tax official will be available to taxpayers under 'Additional Notices and Orders'

- Taxpayer can reply to the audit notices and can upload document
- Taxpayer can accept/reject/pay the liabilities, discrepancy-wise, as outlined in the Notice for Discrepancies or in Addl. Notice for Discrepancies (if any) or in Audit Report (Form GST ADT-02).
- Taxpayers can apply for Adjournment or for extension of the date of Audit to the tax officer.

**Status of Aadhaar authentication or E-KYC verification of a GSTIN in search taxpayer functionality:** In the Search Taxpayer functionality (both pre-login and post login), the user will now be shown status of Aadhaar authentication or E-KYC verification of the searched GSTIN.

**Change in label and functionality of HSN/ Service Classification Code Tax Rate search:** The label for "Search HSN / Service Classification Code Tax Rate" has now been changed to "Search HSN Code". The functionality also has been enhanced wherein if the user searches for an item or a HSN code, the output is displayed systematically under the associated Chapter head, the description of the HSN code and also other associated HSN codes (all hyperlinked) along with it.

## GST Technical Updates – GSTN

### New functionalities deployed on the GST Portal for taxpayers

**Date: 09-03-2021**

**Post TRN Login, Tracking of Registration Application Status:** The Search ARN Functionality for Registration, post TRN Login (i.e. after TRN is generated by taxpayer/ applicant but has not completed the filing of registration application), has been enhanced for the taxpayers. They will now be displayed various stages of Registration, with the current status of their application in green colour and remaining pending stages being greyed out.

**Issuance of Form GSTR 3A, for Non-Filing of GSTR-3B Returns to taxpayers, under QRMP scheme:** Functionality has been deployed on GST Portal for issuance of system generated notice in Form GSTR-3A, to the taxpayers who have opted for/ assigned to QRMP Scheme and fail to file their GSTR-3B return on quarterly frequency, by due date.

**Facility to file NIL Form GST ITC-03 by the taxpayers opting-in to Composition scheme:** Existing taxpayers while opting for composition scheme are required to file details of stock in Form GST ITC-03 and pay tax on the stock (on which ITC has been claimed by them). Now a facility has been provided on the GST Portal to such taxpayers to file NIL Form GST ITC-03.

**Pre login Tracking of Refund Application Status:** Now taxpayers can navigate to Services > Track Application Status > Select the Refund option > Enter ARN to track their refund application, without logging into the GST Portal.

**Withdrawal of Refund Application by Taxpayer, in Form GST RFD-01W:** Earlier the taxpayers had no option to withdraw their refund applications, if they have committed any mistakes, while filing the application. A functionality has now been implemented for the taxpayer, to withdraw an already filed refund application, by filing Form GST RFD-01W (until the Refund Processing Officer issues an acknowledgement in Form GST RFD-02 or a deficiency memo in Form GST RFD03).

## GST Technical Updates – GSTN

### **New functionalities deployed on the GST Portal for taxpayers**

**Date: 09-03-2021**

**Enabling applicants with (only) TRN, to manually enter bank account details in Refund Application:** So far the applicants having (only) TRN were unable to file an application for refund, as they were not allowed to enter or add bank account details in the Registration Module. To enable filing of Refund Application by such applicants, a facility has been made available to them for manual entry of bank account details in Form GST RFD-01.

**Selection of two more reasons for voluntary payment in Form GST DRC-03:** Following two reasons have been included for selection in drop down list for Form GST DRC-03, for the taxpayers to make voluntary payment:

- Liability Mismatch - GSTR-1 to GSTR-3B
- ITC Mismatch - GSTR-2A/2B to GSTR-3B.

**Auto-generation of Form GST DRC-01 and its availability to the taxpayer on the GST Portal:** The auto-generation of Form GST DRC-01 (upon issuance of SCN/MOV-07/MOV-10 in Enforcement Module) has been enabled on the GST Portal and the same is now made available to the taxpayer under Additional Notices & Orders sub menu (Services> User Services > Additional Notices & Orders).

**Saving Advance Ruling/Advance Ruling Appeal applications by applicants:** Applicants can now save Advance Ruling/Advance Ruling Appeal applications upto 15 days, before editing and filing it on GST Portal.

## GST – Judicial Precedents

### 1. Classification

#### Classification of alcohol-based hand sanitizers

In **Re: M/s. CE-Chem Pharmaceuticals Pvt Ltd** [2021 (3) TMI 140 - Authority for Advance Ruling, Karnataka], the Applicant was inter-alia engaged in manufacture of Hand Sanitizers and sought advance ruling on classification and GST rate on Hand Sanitizers. The Applicant contended that Hand Sanitizers are classifiable under Heading 3004 of the Customs Tariff Act, 1975 which covers ‘medicaments for therapeutic or prophylactic use’ and attracts GST of 12%. The Applicant submitted that use of Hand Sanitizers is for prevention of spread of diseases and is used for prophylactic use and thus qualifies as ‘Medicament’.

The AAR observed that Hand Sanitizers are not available in measured doses or tablets and thus not covered under Heading 3004 and Heading 3003. Since the purpose of Hand Sanitizers is to disinfect hands to prevent spread of virus, the same shall be covered as ‘disinfectant’ under Heading 3808. Thus, Hand Sanitizers shall attract GST of 18%.

### 2. Supply

#### Classification of subsidized shared transport facility provided to employees

In **Re: M/s. North Shore Technologies Private Limited** [2021 (3) TMI 707 - Authority for Advance Ruling, Uttar Pradesh], the applicant is a private limited company, engaged in the business of software development, consultancy & staff augmentation services from its business premises. They are required to arrange transport facility for the female workers for onwards and return journey, between work place and home, if the female workers are employed from 7.00 pm to 10.00 am. In view of this, the applicant is providing transport facility to its employees.

Accordingly, the following questions have been asked by the applicant, in his application dated 22.01.2020, before the Authority: -

- i. Whether the subsidized shared transport facility provided to employees in terms of employment contract through third party vendors, would be construed as “Supply of service” by the company to its employees?
- ii. If the answer to above question is in affirmative, how the value of subsidized shared transport facility provided to employees under employment contract, will be determined by the applicant?
- iii. If the answer to question 1 is in affirmative, under which service classification, the activity of arranging transport facility for employees, would fall?
- iv. If the answer to question 1 is in affirmative, who would be liable to pay the GST and what rate of GST would be applicable on the value of supply determined under question 2 above?



## GST – Judicial Precedents

### 2. Supply

#### Classification of subsidized shared transport facility provided to employees

**HELD THAT:** The applicant is transferring the entire amount collected from their employees, to the third party vendor who is providing transport services to their employees. We also observe that the applicant, in his application, has informed that apart from subsidized amount collected from the employees, they are also adding up a considerable amount into it and then paying it to the third party vendor. The applicant is not retaining any amount collected from the employees towards said transportation charges. We further observe that the applicant is in the business of software development and staff augmentation services and not in the business of providing transport service. Rather, this is a facility provided to their employees under the obligation of Law of the Land. Moreover, this activity is not integrally connected to the functioning of their business. Also, the said activity is not a factor which will take their business activity forward.

Thus, providing transport facility to its employees cannot said to be in furtherance of business.

Thus, arranging the transport facility for the employees and recovery from employees towards such transport facility, under the terms of the employment contract, cannot be considered as supply of service in the course of furtherance of business. Providing transport facility to employees is nowhere connected with the business of the applicant - thus, we are in unison with the applicant that arranging the transport facility for the employees is definitely not an activity which is incidental or ancillary to the activity of software development, nor can it be called an activity done in the course of or in furtherance of development of software as it is not integrally connected to the business in such a way that without this the business will not function.

Further, coming to the subsequent questions, it is observed that the subsequent questions in the application apply only when the answer of first question is in affirmative. As we are of the view that arranging transport facility to its employee is not a supply of service, accordingly the remaining questions become redundant and merit no discussion.

## GST – Judicial Precedents

### 3. Classification

#### Classification of transaction of printing of content provided by the customer on PVC banners

In **Re: M/s. Macro Media Digital Imaging Private Limited** [2021 (3) TMI 499 – Appellate Authority for Advance Ruling, Tamil Nadu], the Appellant made an Application seeking advance ruling on the following:

1. Whether the transaction of printing of content provided by the customer on PVC banners and supply of such printed trade advertisement is supply of goods?
2. What is the classification of such trade advertisement material if the transaction is a supply of goods?
3. What is the Classification and applicable rate of GST on the supply of such trade advertisement material if the transaction is that of a supply of Services?

The original authority has ruled as follows:

1. The printing of content provided by the recipient on the PVC materials of the appellant and supply of printed trade advertising material to the recipient is a composite supply, and 'Supply of service of printing' is the principal supply.
2. The classification of the service is SAC 998912 and the applicable tax rate is as per Notification No.11/2017 CT(Rate) dated 28.06.2017 as amended from time to time.

Aggrieved by the above decision, the Appellant has filed the present appeal.

**Held that:** It is evident that the Purchase Order is issued for 'Printing' the 'Copyrighted Digital Content of the client' in the desired material. The material blanks' owned by the appellant are transferred to the client as Trade Advertisement material' after undertaking Printing of the Content of the client on the blanks. The appellant is vested with and undertakes the printing of the content, the copyright of which rests with the recipient and the copyright always rests only with the client and the appellant do not have any propriety rights to the content - Once it is held that the activity is a contract for work or service wherein there is also transfer of property in goods incidentally then it is a composite supply as per Section 8 of the GST Act and 'Supply of service of printing' is the principal supply.

The decision of Advance Ruling Authority upheld.

## GST – Judicial Precedents

### 4. Time of Supply

#### Time of Supply of Advance received for execution of project

In **M/S. Uttar Pradesh Avas Evam Vikas Parishad** [2021 (3) TMI 802 - Authority for Advance Ruling, Uttar Pradesh], the appellant is a Board constituted under Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 and entrusted with the work to execute housing and improvement schemes in the State, whether chalked out by itself or by any local authority. Further, as per Section 46 of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965, the applicant may also undertake the execution of any housing or other building project at the request of the State Government on such terms and conditions as may be agreed upon. This work is popularly known as “Deposit Work”.

The appellant receives funds, in advance, for said “Deposit Work”, with certain prefixed conditions such that all the money should be used for execution of particular project only and not for any other purpose and if any interest is earned on the money received for execution of the project, the same will be transferred back in the head of account from which it was drawn.

As per the appellant the said fund received can neither be classified as “Advance Payment” nor as “Loans”, but can only be classified as “Deposit”. Further the appellant can use the funds only in the execution of earmarked project. Accordingly, the appellant submitted an application for Advance Ruling to sought the time of supply and valuation of such advance received on ‘Deposit Works’.

The Authority for Advance Ruling, ruled that:

“The time of supply in case of 'Deposit Works' being executed by the applicant will be the time of receipt of funds from the client government department.” Further, “the value of the supply, on the advance payment received by the applicant, will be the amount of advance received by the applicant towards that particular work/supply.”

Being aggrieved with the Order the appellant filed this appeal application:

**Held that:** The law is crystal clear that once any advance amount is received towards provision of any service that will be treated as the time of supply. Further, the value of the supply, on the advance payment received by the applicant, will be the amount of advance received by the applicant towards that particular work/supply.

Ruling of AAR upheld.

## GST – Judicial Precedents

### 5. Refunds

#### Mismatch between the GST portal data and data on the ICEGATE

In **Rameswar Udyog Pvt. Ltd. Vs. UOI** [2021 (3) TMI 860 – Gujarat High Court], the writ applicants are the exporters of the goods. The writ applicants exported the goods on payment of tax under the IGST Act for the month of July, 2017.

Certain errors were made while furnishing the details outward supplies in the Form GSTR-1 on account of which there was a mismatch between the GST portal data and data on the ICEGATE customs portal and hence, the refund of the IGST was not granted for the month of July, 2017.

The CBIC issued Circular providing for the steps to be taken for amending the GST portal data in case of exporters. The writ applicants approached the GST authorities under the aegis of such Circular number of times.

While the writ applicants were allowed to amend 28 invoices on the portal, they were not being permitted to amend the remaining 14 invoices on the portal because of technical error on the portal. The writ applicants pointed this out on number of occasions to the authorities, but no positive result was achieved.

In such circumstances, the writ applicants are here before this Court with the present writ application.

**Held that:** This writ application is disposed off with a direction to the respondent No.4 to immediately act as per the above and sanction the refund, in accordance with law, as claimed by the writ applicants within a period of 12 weeks from the date of receipt of this order. In case of any further difficulty, it shall be open for the writ applicants to revive this writ application.

## GST – Judicial Precedents

### 6. Exemption

#### Exemption on Services of warehousing of imported agricultural produce

In **Re: M/S. Karaikal Port Private Limited** [2021 (3) TMI 914 – Appellate Authority for Advance Ruling, Puducherry], the Appellant is registered under GST are providing services such as loading, unloading, packing, storage or warehousing of Agricultural produce including wheat that are being imported by any importer or trader through the Karaikal Port. The applicant have filed an application seeking an Advance Ruling on “Whether exemption provided in SI.No.54(e) under Heading 9986 of GST Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 while rendering services such as loading, unloading, packing, storage or warehousing of imported agricultural products including wheat, to any importer or trader.’

**Held that:** On perusal of the Notification 12/2017 Central Tax (Rate) dated 28.06.2017, it is clear that for getting eligibility for exemption under SI.No.54 (e) covered under Heading 9986 the services of loading, unloading, storage or warehousing have to fulfil the conditions mentioned therein i.e. the Services need to be relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel raw material or other similar products or agricultural produce - the said services of loading, unloading, packing, storage or warehousing rendered by a taxpayer can be eligible for exemption only if they are rendered for the above purposes as clearly defined in the Notification i.e. only if the services are extended till the products are taken to primary market for disposal and as a corollary any services extended beyond the stage of primary market are not eligible for classification under the Service Accounting Code 9986 and hence cannot be considered for exemption under the said Notification.

The applicant is providing the services of loading, unloading, packing, storage or warehousing in respect of the 'wheat' which is procured from the farmers from the foreign country and after getting imported into India at Karaikal Port is destined to importer's factory for further processing and it is not destined to the primary market as required for the services to be classified under sl. No. 54 (e) of Heading 9986 of the said exemption Notification. Therefore, the said services rendered by the applicant in the instant case are not eligible for the exemption under the said Notification.

## GST – Judicial Precedents

### 7. Demand and Recovery

#### Bank Account of family members cannot be Provisionally Attached

In the facts of the case of **Dharmesh Gandhi versus Assistant Commissioner (anti-evasion), CGST & Central Excise, Belapur Commissionerate & ORS.** [2021 (3) TMI 495 – Bombay High Court], out of the total bank accounts that have been attached by the respondent, only few of them belong to the petitioner whereas the other accounts belong to the family members.

**Held that:** In *Siddhart Mandavia Vs. Union of India*, [2020 (11) TMI 111 - BOMBAY HIGH COURT], this Court had examined a similar issue relating to attachment of bank account of not only the taxable person but also of his family members. In that context, this Court held that bank account of only the taxable person can be provisionally attached under section 83 of the CGST Act and therefore the provisional attachment of bank account of the family members was set aside.

Some bank accounts were released - for others, petitioner may file objection before the Commissioner i.e. respondent within a period of seven days from today - petition disposed of.



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### **DISCLAIMER:**

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