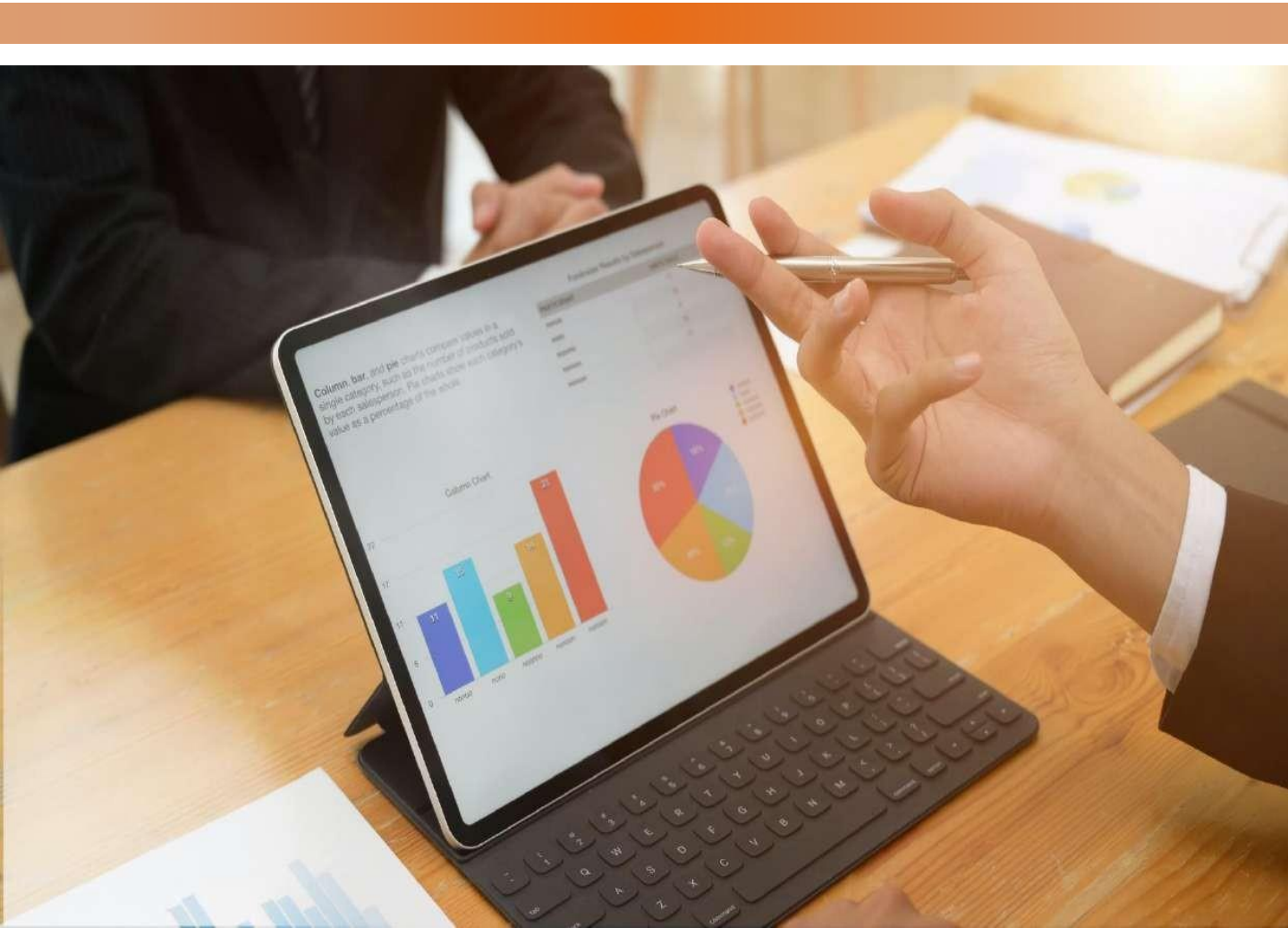


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The GST Bulletin

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GST Compliance Calendar- August 2020

Extended Due Date/ Relief Date	Statutory Due Date	Type of Return	Type of Taxpayer	Particulars of Compliance ***	Ref Notification
03-08-20	31-07-20	GSTR-1 April - June 2020	Agg Turn<1.5 cr Opted for Quarterly Filing		NTN 53/2020-CT Dated 24-06-2020
05-08-20	11-07-20	GSTR-1 June 2020	Agg Turn>1.5 cr Opted for Monthly Filing		NTN 53/2020-CT Dated 24-06-2020
-	10-08-20	GSTR-7-July 2020	TDS Deductor	Due Date extended to 31-08-20	NTN 55/2020-CT Dated 27-06-2020
-	10-08-20	GSTR-8-July 2020	E-Commerce Operator	Due Date extended to 31-08-20	NTN 55/2020-CT Dated 27-06-2020
11-08-20	11-08-20	GSTR-1 July 2020	Agg Turn>1.5 cr Opted for Monthly Filing		
	13-08-20	GSTR-6- July 2020	ISD	Due Date extended to 31-08-20	NTN 55/2020-CT Dated 27-06-2020
20-08-20	20-08-20	GSTR-3B July 2020	Agg Turn> 5 cr	Late fee Nil for Nil Return and Max Rs 500 if filed till 30-09-20	NTN 57/2020-CT Dated 30-06-2020
-	22-08-20	GSTR-3B July 2020	Agg Turn< 5 cr Cat A State*	Waiver of Late fee till 27-09-20. Late fee Nil for Nil Return and Max Rs 500 if filed till 30-09-20 Interest Nil till the 27-09-2020 , and 9 per cent thereafter till the 30-09-2020 post that 18%	NTN 51/2020-CT Dated 24-06-2020,NTN 52/2020-CT Dated 24-06-2020 & NTN 57/2020-CT Dated 30-06-2020
	24-08-20	GSTR-3B July 2020	Agg Turn< 5 cr Cat B State*	Waiver of Late fee till 29-09-20. Late fee Nil for Nil Return and Max Rs 500 if filed till 30-09-20. Interest Nil till the 29-09-2020 , and 9 per cent thereafter till the 30-09-2020 post that 18%	NTN 51/2020-CT Dated 24-06-2020,NTN 52/2020-CT Dated 24-06-2020 & NTN 57/2020-CT Dated 30-06-2020
	20-08-20	GSTR-5- July 2020	Non Resident Taxable Person	Due Date extended to 31-08-20	NTN 55/2020-CT Dated 27-06-2020

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Extended Due Date/ Relief Date	Statutory Due Date	Type of Return	Type of Taxpayer	Particulars of Compliance ***	Ref Notification
	20-08-20	GSTR-5A- July 2020	OIDAR	Due Date extended to 31-08-20	NTN 55/2020-CT Dated 27-06-2020
31-08-20	30-04-20	GSTR-4 FY 2019-20	Composition Tax Payer		NTN 59/2020-CT Dated 13-07-2020
31-08-20	20-03-20	GSTR-5 -Feb 2020	Non Resident Taxable Person		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-04-20	GSTR-5 -March 2020	Non Resident Taxable Person		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-05-20	GSTR-5-April 2020	Non Resident Taxable Person		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-06-20	GSTR-5- May 2020	Non Resident Taxable Person		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-07-20	GSTR-5- June 2020	Non Resident Taxable Person		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-08-20	GSTR-5- July 2020	Non Resident Taxable Person		NTN 55/2020-CT Dated 27-06-2020
	20-08-20	GSTR-5A- July 2020	OIDAR	Due Date extended to 31-08-20	NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-03-20	GSTR-5A -Feb 2020	OIDAR		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-04-20	GSTR-5A -March 2020	OIDAR		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-05-20	GSTR-5A-April 2020	OIDAR		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-06-20	GSTR-5A- May 2020	OIDAR		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-07-20	GSTR-5A- June 2020	OIDAR		NTN 55/2020-CT Dated 27-06-2020
31-08-20	20-08-20	GSTR-5A- July 2020	OIDAR		NTN 55/2020-CT Dated 27-06-2020

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Extended Due Date/ Relief Date	Statutory Due Date	Type of Return	Type of Taxpayer	Particulars of Compliance ***	Ref Notification
31-08-20	13-04-20	GSTR-6-March 2020	ISD		NTN 55/2020-CT Dated 27-06-2020
31-08-20	13-05-20	GSTR-6-April 2020	ISD		NTN 55/2020-CT Dated 27-06-2020
31-08-20	13-06-20	GSTR-6-May 2020	ISD		NTN 55/2020-CT Dated 27-06-2020
31-08-20	13-07-20	GSTR-6-June 2020	ISD		NTN 55/2020-CT Dated 27-06-2020
31-08-20	13-08-20	GSTR-6-July 2020	ISD		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-04-20	GSTR-7-March 2020	TDS Deductor		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-05-20	GSTR-7- April 2020	TDS Deductor		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-06-20	GSTR-7-May 2020	TDS Deductor		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-07-20	GSTR-7- June 2020	TDS Deductor		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-08-20	GSTR-7- July 2020	TDS Deductor		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-04-20	GSTR-8-March 2020	E-Commerce Operator		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-05-20	GSTR-8-April 2020	E-Commerce Operator		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-06-20	GSTR-8-May 2020	E-Commerce Operator		NTN 55/2020-CT Dated 27-06-2020
31-08-20	10-07-20	GSTR-8-June 2020	E-Commerce Operator		NTN 55/2020-CT Dated 27-06-2020

Note :

*Cat A: Regular Tax payers 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 Tax payers 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

**NTN 55/2020-CT dt 27.06.2020- Due Date for :

Assesee: Filing of appeal, reply, application, furnishing of any report, document return, statement, records for cases
Department: Completion of proceedings, Passing of any order, Issuance of Notice, Intimation, Notification, Sanction or approvals

where due date of compliance which falls during the period from "20.03.2020 to 30.08.2020" will be 31.08.2020

GST Updates - Notifications

S. No.	Notification No.	Summary of Notifications
1.	58/2020- CT dt 1.07.2020	Amendment in CGST Rules ❖ Facility of Filing NIL GSTR-3B and GSTR-1 through SMS and the same shall be verified by a registered mobile number based One Time Password facility. To come in force from 1st July, 2020
2.	59/2020- CT dt 13.07.2020	Seeks to extend the due date for Filing GSTR-4 (annual return composition taxpayer) for FY 2019-20 from 15.07.2020 to 31.08.2020
3.	60/2020- CT dt 30.07.2020	Seeks to notify the schema for E-Invoice
4.	61/2020-CT dt. 30.07.2020	<p>E-Invoicing w.e.f. 01-10-2020 for registered persons having turnover exceeding Rs 500 crores</p> <p>The CBIC vide Notification No. 61/2020–Central Tax dated 30th July 2020 has notified that the e-invoicing shall be applicable in case of registered person having aggregate turnover exceeding Rs 500 crores in a financial year with effect from 1st October 2020.</p> <p>However, the following registered persons shall be exempted from e-invoicing provisions;</p> <ul style="list-style-type: none"> • Special economic zones • Insurance company, Banking company, Financial institution, Non-banking financial institution, • Goods Transport Agency, • Passenger Transportation Service and • Admission to exhibition of cinematograph films in multiplex screens.

GST Updates – CBIC Instructions

Removal of Pendency of registration application filed during COVID period

[CBEC-20/06/11/2020-GST/1137 dated 17.07.2020]

It states that various apprehensions have been raised with respect to cases of deemed approval of registration during lockdown period which are stated as Non-working days owing to closure of Govt. Offices.

It had been decided that the deemed approval of application of registration would not be granted on the portal with effect from 25th March, 2020. Accordingly, deemed approvals had been held up.

However, post lifting of lockdown, deemed approvals have been granted for all those applications pending as on 30.06.2020, which had not been processed till 15th July 2020.

It has been further decided that the applications received thereafter which remain pending as on 31.07.2020 shall be deemed approved on 31.07.2020 and the 3 days deemed approval of application of registration would be resumed from 01st August, 2020. It is thus instructed that all the pending applications of registration be disposed of, on or before 30th July, 2020 as a special drive.

In cases where deemed approval is given during the lockdown, proper officers may get the physical verification of business premises done, wherever required.

GST Updates – CBIC Instructions

Method for Computation of Aggregate Turnover for the purpose of GSTR-3B

[CBIC- Mailers to Assessee]

Definition of 'Aggregate turnover', defined under sub-section 6 of section 2 of the CGST Act, 2017.

Accordingly, following methodology to compute aggregate turnover has been adopted:

- (a) Turnover declared in Table 3.1(a), 3.1(b), 3.1(c) and 3.1(e) of GSTR-3B has been accounted for the computation.
- (b) If the return of a tax period which was due to be filed but has not been filed for any of the GSTINs registered on the common PAN, the turnover of that period has been estimated by way of extrapolation as under:

*[(Turnover declared/ No. of GSTR-3B filed) * No. GSTR-3B liable to be filed].*

- (c) The turnover (including extrapolated turnover) of GSTINs has been summed up at PAN level.

CBIC is sending the above mailers to all the assessee whose system computed Aggregate Turnover is above INR 5 Crs. In case the assessee's aggregate turnover is below INR 5 Crs then he need to revert back with validates to the Assessing Officer.

CGA Legal Comments

In case if there is anomaly in the calculation, it should be reverted immediately as all compliances of GSTR-3B is based on the fact that Aggregate Turnover is upto INR 5cr or more.

GST Technical Updates – GST Portal

Filing Form GSTR-4 Annual Return by Composition Taxpayers on GST Portal

1. What is Form GSTR-4 Annual Return: - With effect from 1st April, 2019, all Composition Taxpayers are required to file Form GSTR-4 Annual Return, on annual basis, for each financial year.

2. Who are required to file Form GSTR-4 Annual Return: All registered taxpayers who have opted for composition scheme or were under composition scheme under GST, for any period during a financial year, starting from 01.04.2019, need to file Form GSTR-4 Annual Return, annually.

3. Who can file NIL Form GSTR-4 Annual Return: Nil Form GSTR-4 Annual Return can be filed for the financial year, if you have, for all applicable quarters of the year,:

- ✓ NOT made any outward supply
- ✓ NOT received any goods/services
- ✓ Have NO other liability to report
- ✓ Have filed all Form CMP-08 as Nil

4. Due date of Filing: The due date for filing Form GSTR-4 Annual Return is 30th of the month succeeding the financial year or as extended by Government, from time to time. For FY 2019-20, it has to be filed by 31/08/2020.

5. Filing Form GSTR-4 Annual return: Logon to your dashboard, click on Services > Returns > Annual Return > Select FY > Search > GSTR 4 > FILE THE RETURN.

Some Important Points:

- ✓ Form GSTR 4 can be filed only if, **all applicable quarterly statements in Form CMP 08 of that financial year, have been filed.**
- ✓ Form GSTR-4 Annual Return, once filed, **can't be revised.**
- ✓ An **EXCEL based offline tool** has been provided on GST portal for composition taxpayers to prepare their GSTR-4 Annual Return. **Online Filing already available.**
- ✓ Form GSTR-4 Quarterly Return is applicable up to tax period ending on 31st March, 2019, for composition taxpayers.
- ✓ For tax periods till the quarter ending March, 2019, Composition Taxpayers are required to file Form GSTR-4 Quarterly Return (which is also available on the GST portal), on quarterly basis. Whereas from 01.04.2019, composition taxpayers are required to file Form GST CMP 08, on quarterly basis

GST Technical Updates – GST Portal

Functionality to file Revocation Application under Removal of Difficulty

In view of the *Removal of Difficulty Order No. 01/2020 dated 25.06.2020*, the restriction on filing revocation application, in case it was rejected, has been removed. Aggrieved taxpayers can file application for revocation of cancellation of registration once again.

Further, those taxpayer who have filed Appeal against rejection of the Revocation Application and the decision is still pending, they may also file the Revocation of Cancellation.

Taxpayer is required to login and navigate to Services> Registration> Application for Revocation to file the application for revocation.

GST – Judicial Precedents

1. Challenge to Constitutional Validity and Legality – Blocked ITC

Constitutional validity and legality of Section 17(5)(c) and Section 17(5)(d) of the CGST Act, 2017 relating block input tax credit and the Circular No. 28 dated 01-01-2018 challenged

Delhi International Airport Ltd. V. UOI [2020 (7) TMI 696 - Delhi High Court]

Writ petition has been filed challenging the constitutional validity and legality of Section 17(5)(c) and Section 17(5)(d) of the CGST Act, 2017 and the Delhi GST Act, 2017 and the Circular No. 28 dated 01st January, 2018. In the petition, it has been averred that by the impugned provisions and circular, petitioner has been denied the Input Tax Credit of tax paid by it on works contract services as well as goods and services used in the construction of an immovable property (other than plant and machinery), despite such goods and services being used for purposes of business and to provide taxable supplies liable to GST.

Learned senior counsel for the petitioner submits that the impugned provisions and impugned circular are violative of Article 14 of the Constitution and are a complete departure from the rationale and objective of introducing GST which was to avoid the cascading effect of taxes and removal of breaks in the tax chain.

The matter is listed on 15th September 2020.

2. Challenge to Constitutional Validity and Legality – POS Intermediary Services

Whether the provisions of Section 13(8)(b) read with section 2(13) and 8(1) of the IGST Act, 2017 are ultra vires and unconstitutional or not?

In **Material Recycling Association of India Vs. UOI** (S) [2020 (8) TMI 11], the Gujarat High Court had upheld the constitutional validity of section 13(8)(b) read with section 2(13) and 8(1) of the IGST Act, 2017. It held that it can not be said that the provision of Section 13(8)(b) read with Section 2(13) of the IGST Act, 2017 are ultra vires or unconstitutional in any manner. It would however, be open for the respondents to consider the representation made by the petitioner so as to redress its grievance in suitable manner and inconsonance with the provisions of CGST and IGST Act. The petition is, therefore, disposed of accordingly. not attract GST.

GST – Judicial Precedents

3. Challenge to Constitutional Validity and Legality – Anti-Profiteering Authority

Constitutionality and legality of National Anti-Profiteering Authority as well as Section 171 of the CGST Act and Rules 122, 126, 127 and 133 of the CGST Rules has been challenged

In **M/s. Patanjali Ayurved Ltd. Vs UOI** [2020 (7) TMI 614 - Delhi High Court], the Constitutionality and legality of National Anti-Profiteering Authority as well as Section 171 of the CGST Act and Rules 122, 126, 127 and 133 of the CGST Rules has been challenged. Learned senior counsel for petitioner states that in the absence of a methodology the entire proceeding before National Anti-Profiteering Authority is in breach of natural justice and violative of Articles 14 and 19(1)(g) of the Constitution. He points out that in thirty-five similar matters this Court has issued notice and listed the matters for hearing on 24th August, 2020.

Also challenged in **M/s. Samsonite South Asia Pvt. Ltd. Vs UOI** [2020 (7) TMI 526 - Delhi High Court] & **M/s Nani Resorts And Floriculture Pvt. Ltd. Vs UOI** [2020 (7) TMI 198 - Delhi High Court]

4. Search & Seizure

Search in Presence of Lawyer by GST officers

Subhash Joshi Vs Director General of GST Intelligence (DGGI) [2020 (7) TMI 138 - Madhya Pradesh High Court], the High Court observed and held that in terms of sub-section 10 of Section 67, presence of two or more independent and respectable inhabitants of the locality is necessary as witness to the search.

The search is yet to take place in the present case and the counsel for respondents has duly assured this court that the aforesaid provision will be complied with therefore no direction in this regard at this stage is required. Another submission of counsel for petitioner is that the search should be carried out in the presence of the Advocate, but counsel for petitioner has failed to point out any statutory provision or any such legal right in favour of the petitioner.

The submission of the counsel for petitioner to carry out the search and seizure operation in the presence of the petitioner cannot be accepted - Petition dismissed.

5. Challenge to Constitutional Validity and Legality – Rule 89(5) - Refund

Whether rule 89(5) of the CGST Rules, 2017, which provides formula for calculation of refund in case of unutilised input tax credit, is ultra vires or not?

In **VKC Footsteps India Pvt. Ltd. Vs UOI** [2020 (7) TMI 726] - Gujarat High Court observed and held that it appears that by prescribing the formula in Sub-rule 5 of Rule 89 of the CGST Rules, 2017 to exclude refund of tax paid on “input service” as part of the refund of unutilised input tax credit is contrary to the provisions of Sub-section 3 of Section 54 of the CGST Act, 2017 which provides for claim of refund of “any unutilised input tax credit”. The word “Input tax credit” is defined in Section 2(63) means the credit of input tax. The word “input tax” is defined in Section 2(62), whereas the word “input” is defined in Section 2(59) means any goods other than capital goods and “input service” as per Section 2(60) means any service used or intended to be used by a supplier. Whereas “input tax” as defined in section 2(62) means the tax charged on any supply of goods or services or both made to any registered person. Thus “input” and “input service” are both part of the “input tax” and “input tax credit”. Therefore, as per provision of sub-section 3 of Section 54 of the CGST Act, 2017, the legislature has provided that registered person may claim refund of “any unutilised input tax”, therefore, by way of Rule 89(5) of the CGST Rules, 2017, such claim of the refund cannot be restricted only to “input” excluding the “input services” from the purview of “Input tax credit”. Moreover, clause (ii) of proviso to Sub-section 3 of Section 54 also refers to both supply of goods or services and not only supply of goods as per amended Rule 89(5) of the CGST, Rules 2017.

We are of the opinion that *Explanation (a) to Rule 89(5) which denies the refund of “unutilised input tax” paid on “input services” as part of “input tax credit” accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act, 2017.*

The respondents are therefore, directed to allow the claim of the refund made by the petitioners considering the unutilised input tax credit of “input services” as part of the “net input tax credit” (Net ITC) for the purpose of calculation of the refund of the claim as per Rule 89(5) of the CGST Rules, 2017 for claiming refund under Sub-section 3 of Section 54 CGST Act, 2017.

CGA Legal Comments

Thus, the taxpayers who availed the refund of unutilized ITC on account of inverted duty structure on inputs only can now file the refund claim for input services also. In our view, the refund application can be filed manually based on decision in Pitambra Books as the GSTN Portal would not allow the filing of refund claim again in such cases.

6. Refund

Grant of Refund in case neither any acknowledgment in FORM GST RFD-02 has been issued nor any deficiency memo has been issued in RFD-03 within time line of fifteen days

Jian International Vs Commissioner DGST [2020 (7) TMI 611 - Delhi High Court], the DHC observed and held that the learned counsel for petitioner states that in accordance with Section 54(6) of DGST Act read with Rule 91(2) of DGST Rules, 2017, proper officer is required to refund at least 90% per cent of the refund claimed on account of zero-rated supply of goods or services or both made by registered persons within a period of seven days from the date of acknowledgment issued under sub-rule (1) or sub-rule (2) of Rule 90 of DGST Rules. The HC observed that despite the period of fifteen days from the date of filing of the refund application having expired on 19th November, 2019, the respondent has till date neither pointed out any deficiency/ discrepancy in FORM GST RFD-03 nor it has issued any acknowledgement in FORM GST RFD-02.

The HC, further, observed that to allow the respondent to issue a deficiency memo today would amount to enabling the Respondent to process the refund application beyond the statutory timelines as provided under Rule 90 of the CGST Rules, referred above. This could then also be construed as rejection of the petitioner's initial application for refund as the petitioner would thereafter have to file a fresh refund application after rectifying the alleged deficiencies. This would not only delay the petitioner's right to seek refund, but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules.

Consequently, this Court is of the view that the respondent has lost the right to point out any deficiency, in the petitioner's refund application, at this belated stage.

CGA Legal Comments

In our view, the Hon'ble Delhi High Court has correctly held that the refund shall be granted in case of failure of department to issue acknowledgment in FORM GST RFD-02 or any deficiency memo in RFD-03 within the stipulated time. The Taxpayer shall not be penalized at the inaction of the department.

7. Refund

Inaction on the part of the Department for not disbursing the refund amount owing to the non-functioning of the GST Appellate Tribunal

Zones Corporate Solutions Pvt. Ltd. Vs Commissioner of CGST Delhi East [2020 (7) TMI 287], the Delhi High Court observed that the writ petition has been filed seeking a direction to the respondents to refund ₹ 1,40,99,149/- due to the petitioner along with interest which the respondents have failed to release despite two orders dated 23rd July, 2019 passed by the learned Commissioner (Appeals)-I, Delhi, which have attained finality.

In the petition, it has been averred that refund is due to the petitioner under the provisions of the IGST Act, 2017 and DGST Act, 2017 on account of exports made by the petitioner and supplies of computer hardware goods made to SEZ units – which are termed as ‘zero rated supplies’ in GST.

Learned counsel for petitioner submits that withholding of refund due to the petitioner is violative of Section 16 of IGST Act as well as Sections 54 and 56 of the CGST Act, 2017. The petitioner has succeeded in appeal vide order dated 23rd July, 2019. Though nearly a year has passed, yet no proceeding has been filed challenging the said order till date.

It was held that petitioner cannot be asked to wait endlessly for the respondents to challenge the order dated 23rd July, 2019. Consequently, the present writ petition is disposed of with a direction to the respondents to refund the amount as directed by the Commissioner (Appeals) vide order dated 23rd July, 2019 within four weeks. During this period, it shall be open to the respondents to file appropriate proceedings in accordance with law. All rights and contentions of the parties including objection, if any, to the maintainability of such proceedings are left open.

CGA Legal Comments

In our view, the hon'ble Delhi High Court has correctly held that inaction on the part of the Department for not disbursing the refund amount owing to the non-functioning of the GST Appellate Tribunal can not be ground for withholding of refund.

8. Demand & Recovery

Demand for deposit of inadmissible input tax credit without initiating any adjudication process is not valid

In **Rishi Bansal Propertor of Bansal Sales Corporation Vs UOI** [2020 (7) TMI 578 - Delhi High Court], the honorable DHC observed that the petitioner has challenged the letter dated 11th June, 2020 and summon dated 06th July, 2020 issued by respondent (department) whereby the petitioner has been asked to deposit ₹ 2,69,21,228/- being alleged as inadmissible input tax credit and file DRC-03 challan without initiating any adjudication process either under Section 73 or Section 74 of CGST Act.

On behalf of revenue it is submitted that, the intent behind issuing the impugned letter dated 11th June, 2020 was to give an opportunity to the petitioner to come forward and either explain the transaction or deposit the tax with minimum interest and penalty under Section 74(5) of the CGST Act without going through the adjudication procedure. He clarifies that if after the investigation the respondent is not satisfied with the petitioner's response, it shall follow the adjudication process for recovery.

Held: It was held that the aforesaid statement made by learned counsel for respondent nos. 2 and 3 is accepted by this Court and said respondents are held bound by the same. It is clarified, as a matter of abundant caution, that as the demand is disputed by the petitioner, no coercive steps shall be taken for recovery of the said demand without following the adjudication process.

CGA Legal Comments

Normally, the department issues intimation in **Form DRC-01A** [Intimation of tax ascertained as being payable under section 73(5)/74(5)] before issuance of formal show cause notice. By way of this intimation, an opportunity is being provided to registered person to pay the tax, interest and applicable penalty. Thus, the honorable High Court has rightly directed to the department that no demand shall be recovered without following the adjudication process as provided in the law.



Contact Us

CA. Chitresh Gupta

Team CGA Legal

Chitresh.gupta@gstexperts.net

Mobile : 9910367918

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