



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
www.cgalegal.co.in

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Key Highlights of the 49th GST Council Meeting held on 18.02.2023

- 1. Extension of time limit for application for revocation of cancellation of registration:** The Council has recommended to make an amendment in Section 30 of CGST Act, 2017 and Rule 23 of CGST Rules, 2017 so as to provide that the time limit for making an application for revocation of cancellation of registration be increased from 30 days to 90 days. Where the registered person fails to apply for such revocation within 90 days, the said time period may be extended by the Commissioner or an officer authorized by him in this behalf for a further period not exceeding 180 days.
- 2. Amnesty Scheme for Cancelled Registration:** An amnesty may be provided for the past cases, where registration has been cancelled on account of non-filing of the returns, but application for revocation of cancellation of registration could not be filed within the time specified in section 30 of CGST Act, by allowing such persons to file such application for revocation by a specified date, subject to certain conditions.
- 3. Amnesty Scheme for furnishing of Form GSTR-4, GSTR-9 & GSTR-10:** To provide relief to a large number of taxpayers, the Council recommended amnesty schemes in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10 by way of conditional waiver/ reduction of late fee.
- 4. Rationalization of Late Fees for furnishing of Form GSTR-9 from FY 2022-23 onwards:** Presently, Late fee of Rs 200 per day (Rs 100 CGST + Rs 100 SGST), subject to a maximum of 0.5% of the turnover in the State or UT (0.25% CGST + 0.25% SGST), is payable in case of delayed filing of annual return in FORM GSTR-9. The Council has recommended to rationalize this late fee for delayed filing of annual return in FORM GSTR-9 for FY 2022-23 onwards as follows:

Key Highlights of the 49th GST Council Meeting held on 18.02.2023

Aggregate Turnover of Registered Person

Late fees

Up to Rs. 5 Crores in the financial year 2022-23

Rs 50 per day (Rs 25 CGST + Rs 25 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).

More than Rs. 5 Crores and up to Rs. 20 Crores in the financial year 2022-23

Rs 100 per day (Rs 50 CGST + Rs 50 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST)

6. Extension of time for filing return for withdrawal of Best Judgment Assessment

Order: The Council recommended to amend section 62 so as to increase the time period for filing of return for enabling deemed withdrawal of such best judgment assessment order, from the present 30 days to 60 days, extendable by another 60 days, subject to certain conditions.

7. Amnesty Scheme for conditional deemed withdrawal of Assessment Orders:

The Council has also recommended to provide an amnesty scheme for conditional deemed withdrawal of assessment orders in past cases where the concerned return could not be filed within 30 days of the assessment order but has been filed along with due interest and late fee upto a specified date, irrespective of whether appeal has been filed or not against the assessment order, or whether the said appeal has been decided or not.

8. Rationalization of provision of place of supply of services of transportation of goods:

Council recommended to rationalize the provision of place of supply for services of transportation of goods by deletion of section 13(9) of IGST Act, 2017 so as to provide that the place of supply of services of transportation of goods, in cases where location of supplier of services or location of recipient of services is outside India, shall be the location of the recipient of services.

Key Highlights of the 49th GST Council Meeting held on 18.02.2023

9. Change in Rate of Goods:-

S.No.	Description	From	To
1	'Rab'	18%	5% - if sold prepackaged and labelled Nil – if sold otherwise
2	Pencil Sharpener	18%	12%

10. Other changes relating to Goods and Services:

- It has been decided to regularize payment of GST on 'rab' during the past period on "as is basis" on account of genuine doubts over its classification and applicable GST rate.
- It was decided to suitably amend notification No. 104/94-Customs dated 16.03.1994 so that if a device like tag- tracking device or data logger is already affixed on a container, no separate IGST shall be levied on such affixed device and the 'nil' IGST treatment available for the containers under notification No. 104/94-Customs shall also be available to the such affixed device subject to the existing conditions.
- It has been decided to amend entry at Sl. No. 41A of Notification No. 1/2017-Compensation Cess (Rate) so that exemption benefit covers both coal rejects supplied to and by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person.
- It has been decided to extend the exemption available to educational institutions and Central and State educational boards for conduct of entrance examination to any authority, board or a body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.
- It has been decided to extend the dispensation available to Central Government, State Governments, Parliament and State Legislatures with regard to payment of GST under reverse charge mechanism (RCM) to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers etc.

Key Highlights of the 49th GST Council Meeting held on 18.02.2023

- 11. GST Compensation:** Government of India has decided to clear the entire pending balance GST compensation of Rs. 16,982 crore for June'2022. Since, there is no amount in the GST compensation Fund, Centre decided to release this amount from its own resources and the same will be recouped from the future compensation cess collection. With this release, Centre would clear the entire provisionally admissible compensation due for five years as envisaged in the GST (Compensation to States) Act' 2017. In addition, Centre would also clear the admissible final GST compensation to those States who has provided the revenue figures as certified by the Accountant General of the States amounting to Rs. 16,524 crore.
- 12. GST Appellate Tribunal:** The Council adopted the report of Group of Ministers with certain modifications. The final draft amendments to the GST laws shall be circulated to Members for their comments. The Chairperson has been authorised to finalise the same.
- 13. Approval of the Report of GoM on Capacity Based Taxation and Special Composition Scheme in certain Sectors on GST:** With a view to plug the leakages and improve the revenue collection from the commodities like pan masala, gutkha, chewing tobacco, the Council approved the recommendations of the GoM including, inter alia, that:
- the capacity based levy not to be prescribed;
 - compliance and tracking measures to be taken to plug leakages/ evasions;
 - exports of such commodities to be allowed only against LUT with consequential refund of accumulated ITC;
 - compensation cess levied on such commodities to be changed from ad valorem to specific tax based levy to boost the first stage collection of the revenue

GST Updates – GST Technical Updates

Introduction of Negative Values in Table 4 of GSTR-3B

Dated 17-02-2023

1. The Government vide Notification No. 14/2022 – Central Tax dated 05th July, 2022 has notified few changes in Table 4 of Form GSTR-3B for enabling taxpayers to report correct information regarding ITC availed, ITC reversal and ineligible ITC in Table 4 of GSTR-3B. According to the changes, the net ITC is to be reported in Table 4(A) and ITC reversal, if any, is to be reported in Table 4(B) of GSTR-3B.
2. Currently in GSTR-3B, credit note (CN) is being auto-populated in Table 4B(2), as ITC reversal. Now in view of the said changes, the impact of credit notes are also to be accounted on net off basis in Table 4(A) of GSTR-3B only. Accordingly following changes have been made in the GST Portal from January-2023 period onwards and shall be applicable from tax period - January 2023' onwards.
 - a. The impact of credit note & their amendments will now be auto-populated in Table 4(A) instead of Table 4(B) of GSTR-3B . In case the value of credit notes becomes higher than sum of invoices and debit notes put together, then the net ITC would become negative and the taxpayers will be allowed to report negative values in Table-4A. Also, taxpayers can now enter negative values in Table 4D(2) of GSTR-3B.
 - b. Consequent updates/ modification in the advisory, messages, instructions, and help-text in form GSTR-2B, without any structural changes in form GSTR-2B summary or tables have also been done in GSTR-2B.
 - c. The calculation logic of Comparison Report has now been changed accordingly.
3. The taxpayers are advised to go through instructions/help text carefully in GSTR-2B & System Generated GSTR-3B pdf before filing GSTR-3B.

GST News

Payment to states okayed, taxes cut on liquid jaggery, pencil sharpeners, tracking devices

Dated 19-02-2023

Finance Minister Nirmala Sitharaman on Saturday announced that the GST Council has given its approval to clear Rs 16,982 cr balance of compensation to states. Further, the Council reduced the GST on liquid jaggery, pencil sharpeners, and certain tracking devices

The proposal to reduce GST on cement has not come to the fitment committee yet.

"We have announced today that the entire due on the pending balance of the GST compensation will be cleared as of today. In other words, the entire pending balance of the GST compensation - a total of Rs 16,982 crore for June - will be cleared," the Union minister said.

Read more :-

<https://economictimes.indiatimes.com/news/economy/policy/gst-council-meet-updates-payment-to-states-okayed-rate-cut-for-sharpeners-announced/articleshow/98044104.cms>

GST – Judicial Precedents

1. Cancellation of Registration

High Court allowed revocation of registration taking care of Article 21 of the Constitution

Rohit Enterprises Versus Commissioner State GST Aurangabad [Bombay High Court]

Facts: Since the petitioner had undergone angioplasty, and the firm suffered financial set back in pandemic situation, GST returns from August 2021 could not be filed. Resultantly, the Proper Officer cancelled the registration of the petitioner. The Dy. Commissioner/State Tax (Appeal), rejected the appeal on the ground of limitation.

Held: The provisions of GST enactment cannot be interpreted so as to deny right to carry on Trade and Commerce to any citizen and subjects. The constitutional guarantee is unconditional and unequivocal and must be enforced regardless of shortcomings in the scheme of GST enactment. The right to carry on trade or profession cannot be curtailed contrary to the constitutional guarantee under Art. 19(1)(g) and Article 21 of the Constitution of India. If the person like petitioner is not allowed to revive the registration, the state would suffer loss of revenue and the ultimate goal under GST regime will stand defeated.

The petitioner, who is sufferer of unique circumstances resulting from pandemic and his health barriers, would be put to great hardship for want of GST registration. The petitioner who is small scale entrepreneur cannot carry on production activities in absence of GST registration. Resultantly, his right to livelihood would be affected.

The order suspending the GST registration are quashed and set aside - Petition allowed.

GST – Judicial Precedents

2. Demand and Recovery

Whether is it mandatory to upload the show cause notice on the GST Portal?

M/s New Hanumat Marbles, M/s. Shri Mahesh Marble Versus State of Punjab and Others [Punjab and Haryana High Court]

Facts: The grievance of the petitioner is that before passing final order on assessment, Rule 142(1) of the CGST Act is mandatory to be followed and GST DRC-01 has to be uploaded electronically on the website.

Held: Reference was made to Rule 142(1) of the CGST Act and it was observed that the only mode prescribed for communicating to the show cause notice/order is by way of uploading the same on the website of the revenue. The writ petition was allowed with liberty to the revenue to follow the procedure prescribed under Rule 142 (1) of the CGST Act and impugned demand dated 18.09.2020 is struck down.

In the facts of the present case, it is nowhere stated in the reply dated 06.08.2021 filed by the respondents that they had uploaded the notice on the website of the revenue as per Rule 142(1) of the CGST Act, 2017 before passing final orders dated 12.03.2021 and 10.03.2021 (Annexures P- 6 and P-7). Hence, the present writ petitions are allowed and orders dated 12.03.2021 (Annexure P-6) and detailed order dated 10.03.2021 (Annexure P-7) are set aside and the matter is remanded back to the Assessing Officer to pass fresh orders after issuing notice as contemplated under Rule 142(1) of the CGST Act and afford opportunity of hearing to the petitioner(s) in accordance with law.



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