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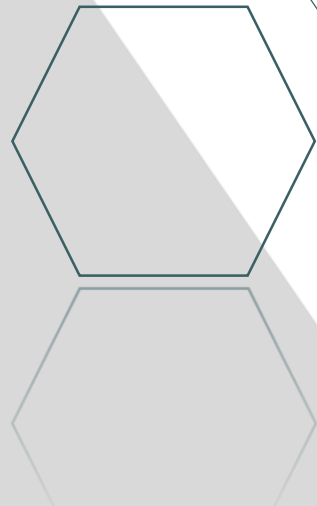
CGA LEGAL

THE GST BULLETIN

YOUR INDIRECT TAX KNOWLEDGE PARTNER

October 2022 Issue - II

Date of Issue – 12th
October 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

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GST Updates – GST Technical Update

Module wise new functionalities deployed on the GST Portal for the month of September 2022

Dated : 06-10-2022

Various new functionalities are implemented on the GST Portal, from time to time, for GST stakeholders. These functionalities pertain to different modules such as Registration, Returns, Advance Ruling, Payment, Refund and other miscellaneous topics.

Please click on the link for the detailed advisory and help manuals.

https://tutorial.gst.gov.in/downloads/news/new_functionalities_compilation_september_2022.pdf

GST Updates – GST Technical Update

Advisory on Filing TRAN-1/2 Forms to claim Transitional Credit

Dated : 01-10-2022

The Hon'ble Supreme Court of India has provided a one-time opportunity to all the aggrieved taxpayers to file Form TRAN-1/TRAN-2 and claim their transitional input tax credit in GST system. In compliance of the Hon'ble court's directive, the facility for filing TRAN-1/ TRAN-2 or revising the earlier filed TRAN-1/TRAN-2 on the GST common portal by aggrieved taxpayers have been made available by GSTN from 01.10.2022, and as per the court's instruction shall be available to all aggrieved taxpayers till 30.11.2022.

The TRAN filing process has been enhanced and the user interface of the portal has been made more intuitive to make it simple and easy for the taxpayer to file their forms TRAN-1/2. For smooth and easy filing of TRAN-1/2 a detailed advisory and a step by step, frame by frame guide has also been prepared.

Please click on the link for the detailed advisory and help manuals.

https://tutorial.gst.gov.in/downloads/news/advisory_tran_links_updated.pdf

GST News

Exporters fear liquidity hit after GST exemption ends

Date: 06-10-2022

The government's move to withdraw the GST exemption on export Freight at the start of the month has made exporters nervous as they expect liquidity to shrink at a time when they are dealing with weak demand in advanced countries, prompting them to seek a relook.

From October 1, GST on ocean freight will have to be paid at 5% , while exports by air billed to consumers in India attracts 18% levy.

Read more at:

<https://timesofindia.indiatimes.com/business/india-business/exporters-fear-liquidity-hit-after-gst-exemption-ends/articleshow/94669363.cms>

GST – Judicial Precedents

1. Exemption

Whether GST would be levied on services of renting of residential dwelling for personal use?

Seema Gupta Versus Union of India [Delhi High Court]

Facts: In the present writ petition, it has been averred that by way of the impugned notification dated 13th July, 2022, the exemption granted by a previous Notification dated 28th July, 2017 for renting of residential accommodation is no longer available to tenants who are registered under GST. It is further averred that this amendment is particularly affecting those who are doing their business as a proprietary concern, like the Petitioner. It is also averred that denial of exemption solely on the basis that the tenant is registered under GST is not based upon any intelligible differentia and the said differentia has no rational relation to the object sought to be achieved.

Held: The clarification that renting of a residential dwelling by a proprietor of a registered proprietorship firm, who rents it in his/her own personal capacity for use as his/her own residence as well as not for use in the course or furtherance of business of his/her proprietorship firm and such renting is on his/her own account and not that of proprietorship firm shall be exempt from GST, is accepted by this Court and all the respondents are held bound by the same.

GST – Judicial Precedents

2. Appeals

Whether pre-deposit for filing appeal can be made through Electronic Credit Ledger?

Oasis Realty, Roma Builders Pvt Ltd. and Macrotech Developers Limited Versus The Union of India [Bombay High Court]

Held: Sub-section (4) of Section 49 provides the amount available in the Electronic Credit Ledger may be used for making any payment towards output tax under the MGST Act or IGST Act subject to certain restrictions or conditions that may be prescribed. Sub-rule (2) of Rule 86 of MGST Rules provides for debiting of the Electronic Credit Ledger to the extent of discharge of any liability in accordance with the provisions of Section 49 of the MGST Act - any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the MGST Act can be made by utilisation of the amount available in the Electronic Credit Ledger. Hence, a party can pay 10% of the disputed Tax either using the amount available in the Electronic Cash Ledger or the amount available in the Electronic Credit Ledger.

Since in the present petitions, the amounts payable are towards output tax, it is held that Petitioners may utilise the amount available in the Electronic Credit Ledger to pay the 10% of Tax in dispute as prescribed under Sub-section (6) of Section 107 of MGST Act.

GST – Judicial Precedents

3. Demand and Recovery

Proper Time Limit for filing the reply to notice under Section 73 to be provided by Proper Officer

Sheetal Dilip Jain Versus State of Maharashtra [Bombay High Court]

Facts: One of the primary grievance raised in the Petition is that when a notice under Section 73 of the Maharashtra Goods and Services Tax Act, 2017 is issued, minimum 15 days time to reply should be given. However, the respondent passed the Order on the very next 8th day of issue of Notice.

Petitioner states that the period of 7 days given in the notice dated 2nd March 2022 to respond by 9th March 2022, issued to Petitioner is contrary to what the MGST Rules, 2017 prescribes.

Petitioner also states that since under Sections 73(8) of MGST Act, a period of 30 days of issue of show-cause notice is given to a person chargeable with tax under sub-section (1) or sub-section (3) of Section 73 to pay the amount, the show-cause notice should provide minimum 30 days to file a reply.

Held: We are in agreement with Mr. Thakar because Sections 73(8) of MGST Act in terms permits a person chargeable with tax, a period of 30 days from issuance of the show-cause notice to make payment of such tax along with interest payable under Section 50. If he does not wish to make payment, then within the 30 day period he could file a reply to the show-cause notice. This statutory period cannot be arbitrarily reduced to 7 days by assessing officer.

These acts/omissions of Respondents' officers is adding to the already overburdened dockets of the Court. Valuable judicial time is wasted because such unacceptable orders are being passed by Respondents' officers. The officers do not seem to understand or appreciate the hardship that is caused to the general public.

Cost of Rs. 10,000/- imposed on GST officer.



Contact Us :

CA. Chitresh Gupta
Team CGA Legal
Chitresh.gupta@gstexperts.net



DISCLAIMER:

The views expressed in this Bulletin are personal view of the presenter. This Bulletin includes general information about legal issues and developments in the law of GST in India. Such materials are for informational purposes only and may not reflect the most current legal developments. These informational materials are not intended, and must not be taken, as legal advice on any particular set of facts or circumstances. We disclaim all liability in respect to actions taken or not taken based on any or all the contents of this presentation to the fullest extent permitted by law.