

# The GST Bulletin

October 2023 Issue-I



**DATE OF ISSUE: 5<sup>th</sup> OCTOBER 2023**



**YOUR INDIRECT TAX KNOWLEDGE PARTNER**

## 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/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](http://www.cgalegal.co.in)

Follow us on



## In this Issue.....

S. No.	Particulars
1.	<b>GST Compliance Calendar – October-2023</b>
2.	<b>GST Updates</b>
	❖ CBIC Notifications
	❖ GST Technical Updates
3.	<b>GST News</b>
4.	<b>GST Judicial Precedents</b>
	❖ ITC cannot be denied solely on the ground that the invoice is not reflecting in GSTR-2A of the recipient [M/s Diya Agencies v. The State Tax Officer - Kerala High Court]
	❖ Whether ITC is required to be reversed on raw material already used in the manufacture of finished goods are destroyed in the fire accident completely [M/S. Geekay Wires Limited - AAR Telangana]
	❖ Validity of time limit prescribed for availing ITC [M/S. Gobinda Construction vs. UOI - Patna High Court]
	❖ Mere using of word agent in the agreement between the foreign party and Indian supplier cannot lead to the conclusion that the India entity is an Intermediary Service Provider [Boks Business Services Pvt. Ltd. Versus Commissioner of Central Goods And Services Tax Delhi South and Anr - Delhi High Court]

## GST Compliance Calendar - October 2023

Date	Types of Return	Period	Types of Taxpayer
10-10-2023	GSTR-7	September 2023	TDS Deductor
10-10-2023	GSTR-8	September 2023	E-Commerce Operator
11-10-2023	GSTR-1	September 2023	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-10-2023	GSTR-1	July to Sept 2023	Turnover up to INR 5 Crores and under QRMP Scheme
13-10-2023	GSTR-6	September 2023	ISD
13-10-2023	GSTR-5	September 2023	Non Resident Taxable Person
18-10-2023	CMP-08	July to Sept 2023	Composition Dealer
20-10-2023	GSTR-3B	September 2023	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
20-10-2023	GSTR-5A	September 2023	OIDAR
22-10-2023	GSTR-3B	July to Sept 2023	Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for *Category A States
24-10-2023	GSTR-3B	July to Sept 2023	Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for *Category B States
25-10-2023	ITC-04	April to Sept 2023	Registered person sending goods for Job work whose aggregate turnover during the immediately preceding financial year exceeds 5 Cr

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

**\* Category 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.

**\*\* Category 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 – CBIC Notification

Ntf. No.	Summary of Notifications
<b>13/2023- IT</b> <b>dt 26.09.2023</b>	<p><b>Seeks to amend IGST Reverse Charge Notification</b></p> <ul style="list-style-type: none"> <li>• Omission of reverse charge on services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India wherein the Importer located in the taxable territory used to pay the tax under reverse charge.</li> <li>• Said change shall be effective from 1<sup>st</sup> of October 2023.</li> </ul>
<b>12/2023- IT</b> <b>dt 26.09.2023</b>	<p><b>Seeks to amend IGST Exemption Notification</b></p> <ul style="list-style-type: none"> <li>• Earlier, the IGST Exemption Notification specially carved out the services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India from the exemption. Now this restriction has been removed and thus, these services are covered under the exemption.</li> <li>• Said change shall be effective from 1<sup>st</sup> of October 2023.</li> </ul>
<b>11/2023- IT</b> <b>dt 26.09.2023</b>	<p><b>Seeks to amend IGST Rate Notification</b></p> <ul style="list-style-type: none"> <li>• Consequential amendment for omission of entry providing rate of tax on services by way of transport of goods in a vessel. Now, this entry does not include services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.</li> </ul>

## GST Technical Updates

### **Time limit for Reporting Invoices on the IRP Portal**

**Dated : 13-09-2023**

It is to inform the taxpayers that it has been decided by the Government to impose a time limit on reporting old invoices on the e-invoice IRP portals for taxpayers with AATO greater than 100 crores.

To ensure timely compliance, taxpayers in this category will not be allowed to report invoices older than 30 days on the date of reporting.

Please note that this restriction will apply to the all document types (Invoices/Credit note/Debit note) for which IRN is to be generated.

For example, if an invoice has a date of November 1, 2023, it cannot be reported after November 30, 2023. The validation built into the invoice registration portals will disallow the user from reporting the invoice after the 30 days window. Hence, it is essential for taxpayers to ensure that they report the invoice within the 30 days window provided by the new time limit.

It is further to clarify that there will be no such reporting restriction on taxpayers with AATO less than 100 crores, as of now.

In order to provide sufficient time for taxpayers to comply with this requirement, which may require changes to your systems, it is proposed to implement it from 1st November 2023 onwards.

## GST Technical Updates

### Geocoding Functionality for the Additional Place of Business

Dated : 19-09-2023

GSTN is pleased to inform that the geocoding functionality for the "Additional Place of Business" address is now active across all States and Union Territories. This builds upon the geocoding functionality earlier implemented for the principal place of business, operational since February 2023.

Here is a brief guide on how to utilize this feature:

**Access:** Navigate to Services>>Registration>>Geocoding Business Addresses tab on the FO portal to find this functionality.

**Usage:** The system will display a system-generated geocoded address. You have the option to accept this or modify it as needed. If a system-generated address is not available, you can input the geocoded address directly.

**Viewing:** Saved geocoded address details can be found under the "Geocoded Places of Business" tab. After logging in, go to My Profile >> Geocoded Places of Business.

**One-time Submission:** This is a one-time activity, and post-submission, address revisions are not permitted. Taxpayers who have already geocoded their addresses through new registration or core amendment would not be required to do this as on the GST portal their address will be shown as geocoded. Remember, changes to the address on your registration certificate can only be made through the core amendment process. This geocoding feature will not affect previously saved addresses.

**Eligibility:** This feature is accessible to normal, composition, SEZ units, SEZ developers, ISD and casual taxpayers whether they are active, canceled, or suspended.

## GST News

### **Commercial Taxes Dept. launches drive against coaching institutes evading GST**

**Date: 21-09-2023**

The Belagavi Enforcement Wing of Commercial Taxes Department, Karnataka, unearthed a prominent group operating multiple coaching institutes in Vijayapura district for alleged evasion of Goods and Services Tax (GST).

Enforcement officials conducted simultaneous searches at the business and residential premises of the coaching institutes of the group and other commercial coaching facilities in the district.

“The officers seized incriminating records and digital evidence. As a result of the search operation, it is suspected that a substantial volume of turnover has been suppressed, and tax has been evaded. They have voluntarily deposited ₹1 crore in GST pending final quantification of turnover and tax,” said C. Shikha, Commissioner of Commercial Taxes (Karnataka), in a press statement on Thursday.

Read more at:

<https://www.thehindu.com/news/national/karnataka/commercial-taxes-dept-launches-drive-against-coaching-institutes-evading-gst/article67330457.ece>



## GST – Judicial Precedents

### 1. Input Tax Credit

**ITC cannot be denied solely on the ground that the invoice is not reflecting in GSTR-2A of the recipient**

**M/s Diya Agencies v. The State Tax Officer [Kerala High Court]**

**Facts:** The petitioner submits that the claim of input tax credit cannot be denied merely on the ground of amount mentioned in the GSTR 2A for which the petitioner does not have any control. Learned Counsel for the petitioner further submits that the assessing authority is required to independently examine the claim of input tax credit of the assessee irrespective of the amount mentioned in the GSTR 2A.

For a dealer to be eligible to avail credit of any input tax, the conditions prescribed in Section 16(2) of the GST Act has to be fulfilled. the petitioner has fulfilled all the conditions as stipulated under Subsection 2 of Section 16 and he has paid the tax to the seller dealer and valid tax invoice has been issued by the seller dealer. The grievance of the petitioner is that despite having fulfilled all the conditions as per the conditions enumerated under Sub-section 2 of Section 16 of the Act, the assessing authority has reversed the credit availed and directed the petitioner to deposit the tax to the extent of disallowance of input tax credit. Learned Counsel for the petitioner submits that the petitioner has supplier dealers and, if they have not deposited the tax paid by the petitioner, petitioner cannot be asked to pay the tax again.

**Held:** Observed that the Petitioner's claim for ITC has been denied only on the ground that the said amount was not mentioned in the GSTR 2A. If the supplier has not remitted the said amount paid by the Petitioner to him, the Petitioner cannot be held responsible.

Considering the CBIC press release dated 18 October 2018 which clarified that GSTR-2A is in the nature of facilitation and does not impact the ability of the taxpayer to avail ITC on self-assessment basis as per Section 16 of the CGST Act. Held that, merely on the ground that in Form GSTR-2A the said tax is not reflected should not be a sufficient ground to deny the assessee the claim of the ITC.

Remanded back to the Adjudicating Authority to give opportunity to the Petitioner to claim for ITC.

## GST – Judicial Precedents

### 2. Input Tax Credit

**Whether ITC is required to be reversed on raw material already used in the manufacture of finished goods which are destroyed in the fire accident completely**

**M/S. Geekay Wires Limited [AAR Telangana]**

**Held:** The statutory provision of the Act has to be interpreted in the context of other statutory provisions i.e., 17(2) and 18(4) and the meaning has to be discerned by applying the principle discussed above i.e., 'ex visceribus actus'. The scheme of the Act becomes clear from the combined reading of three provisions that input tax credit is available to a taxable person only when such taxable person makes taxable supplies. When the taxable supplies are not made input tax credit is not available under Section 17(2) and 17(5)(h). If the input tax credit is already utilized such credit needs to be paid back as given under Section 18(4).

Therefore, the input tax credit to the extent of manufactured goods destroyed or inputs destroyed is not available to the applicant and the same needs to be paid back either through the credit available in the credit ledger or by cash. Scrap sold by the applicant is nothing but a destroyed goods therefore in the context of above discussion sale of scrap i.e., sale of destroyed goods are not eligible for input tax credit.

## GST – Judicial Precedents

### 3. Input Tax Credit

#### Validity of time limit prescribed for availing ITC

##### **M/S. Gobinda Construction vs. UOI [Patna High Court]**

**Held:** The High Court dismissed challenge to validity of Section 16(4) of the CGST Act that prescribed time limit for availment of ITC. The Court noted that language of Section 16(4) is unambiguous and clear. Further, the Court held that ITC is not unconditional and becomes vested right only upon fulfilment of prescribed conditions. Thus, condition prescribed under Section 16(4) is not violative of right to property under Article 300A of the Constitution of India

*Note: Similar view has been taken in case of Thirumalakonda Plywoods Vs Assistant Commissioner (Andhra Pradesh High Court)*

## GST – Judicial Precedents

### 4. Place of Supply

**Mere using of word ‘agent’ in the agreement between the foreign party and Indian supplier cannot lead to the conclusion that the India entity is an Intermediary Service Provider**

**Boks Business Services Pvt. Ltd. Versus Commissioner of CGST Delhi South [Delhi High Court]**

**Facts:** The petitioner is engaged in the business of providing book keeping, payroll, and accounting services through the use of cloud technology to its affiliated entity (TC Outsourcing Limited, previously known as Boks Business Services Limited) incorporated in the United Kingdom. The petitioner applied for refund on such export of services and it got rejected on the reasoning that the petitioner was an “intermediary”, in terms of Section 2(13) of the IGST Act, in respect of the services rendered by it. Thus, the services rendered by the petitioner did not qualify as export of services under Section 2(6) of the IGST Act.

**Held:** The petitioner is not an intermediary, inasmuch, as the petitioner is neither facilitating the provision of services by a third entity nor acting as a middleman for procuring such services for its affiliate. The petitioner is, in fact, contracted to provide the services, and is the principal service provider in the context of the services provided by it – book keeping, payrolls, and accounts through the use of cloud technology.

In the present case, although the agreement does use the word ‘agent’ but is clear that the petitioner is not acting as an agent for procurement of services for the service recipient. It is, in fact, providing the principal service of “Bookkeeping, Payroll, and accounts, through the use of cloud technology”. The fact that such services may be for the clients of the petitioner’s affiliate, Boks Business Services Limited, does not make the petitioner an “intermediary”.

The impugned orders cannot be sustained. The same are set aside - Petition disposed off.



**Contact Us :**

**CA. Chitresh Gupta**  
**Team CGA Legal**  
**[chitresh.gupta@cgalegal.co.in](mailto:chitresh.gupta@cgalegal.co.in)**



**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.*