

DIRECTORATE OF TRAINING,
EXCISE AND TAXATION DEPARTMENT,
PUNJAB, PATIALA

GST UPDATE
(December 2023)

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GIST of GST Notifications

Centre's Notification No.	Subject
Notification No. 55/2023-Central Tax	Extension of due date for furnishing the return in FORM GSTR-3B for the month of November, 2023 till the twenty-seventh day of December, 2023.
Notification No. 56/2023-Central Tax	Extension of the time limit specified under sub-section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the Act.
Notification No. 10-Leg./2023	Amendment in Section 2, Section 10, Section 23, Section 24, Section 30, Section 37, Section 39, Section 44, Section 52, Section 56, Section 62, Section 109, Section 117, Section 118, Section 119, Section 122, Section 132, Section 138, and Section 158A of the Act.
Notification No. S.O. 1/P.A.10/2023/S.1/2024	Change in the date on which provisions of sections 3 to 28 (except sections 16 to 21) and provisions of sections 16 to 21 of the Act will come into force.

(I) **CENTRE GST NOTIFICATIONS**

1. Notification No 55/2023- Central Tax

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA,
EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION**

(i)]

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**

**NOTIFICATION
No. 55/2023 – CENTRAL TAX**

New Delhi, the 20th December, 2023

G.S.R...(E).— In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in **FORM GSTR-3B** for the month of November, 2023 till the twenty-seventh day of December, 2023, for the registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu and Kancheepuram in the state of Tamil Nadu and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

[F. No. CBIC-20006/27/2023-GST]

(Nitish Karnatak) Under
Secretary

2. Notification No 56/2023- Central Tax

[TO BE PUBLISHED IN THE GAZETTE OF INDIA,
EXTRAORDINARY, PART II, SECTION 3, SUBSECTION (ii)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE) CENTRAL BOARD OF
INDIRECT TAXES AND CUSTOMS

NOTIFICATION

No. 56/2023- Central Tax

New Delhi, dated the 28th December, 2023

S.O.....(E).– In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of the Union territory Goods and Services Tax Act, 2017 (14 of 2017) and in partial modification of the notifications of the Government of India, Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3rd April, 2020 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020 and No. 14/2021-Central Tax, dated the 1st May, 2021 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 310(E), dated the 1st May, 2021 and No. 13/2022-Central Tax, dated the 5th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 516(E), dated the 5th July, 2022, and No.

09/2023-Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number G.S.R. 1564(E) dated the 31st March, 2023, the

Government, on the recommendations of the Council, hereby, extends the time limit specified under sub- section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the period as specified below, namely:—

- (i) for the financial year 2018-19, up to the 30th day of April, 2024;
- (ii) for the financial year 2019-20, up to the 31st day of August, 2024.

[F. No. CBIC-20013/7/2021-GST]

(Raghavendra Pal Singh) Director

(II) PGST NOTIFICATIONS

1. Notification No. 10-Leg./2023

**PART I
GOVERNMENT OF PUNJAB
DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB
NOTIFICATION**

The 14th December, 2023

No. 10-Leg./2023.- The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 11th day of December, 2023, is hereby published for general information:-

**THE PUNJAB GOODS AND SERVICES TAX (AMENDMENT) ACT,
2023**

(Punjab Act No. 10 of 2023)

AN ACT

further to amend the Punjab Goods and Services Tax Act, 2017.

BE it enacted by the Legislature of the State of Punjab in the Seventy – fourth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Punjab Goods and Services Tax (Amendment) Act, 2023.

Short title and commencement.

(2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the Government of Punjab may, by notification in the Official Gazette, appoint:

Amendment in section 2 of Punjab Act 5 of 2017.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In the Punjab Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 2,—

(a) after clause (80), the following clauses shall be inserted, namely:— "(80A) "online gaming" means offering of a game on the internet or

an electronic network and includes online money gaming;

(80B) "online money gaming" means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual

digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force;"

(b) after clause (102), the following clause shall be inserted, namely:— "(102A) "specified actionable claim" means the actionable claim

involved in or by way of,—

(i) betting;

(ii) casinos;

(iii) gambling;

(iv) horse racing;

(v) lottery; or

(vi) online money gaming;"

(c) in clause (105), the following proviso shall be inserted at the end, namely:—

"Provided that a person who organizes or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims;" and

(d) after clause (117), the following clause shall be inserted, namely:—

"(117A) "virtual digital asset" shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961;"

3. In the principal Act, in section 10,—

(a) in sub-section (1), after the second proviso, the explanation inserted vide the Punjab Goods and Services Tax (Amendment) Act, 2020 (Punjab Act No. 3 of 2020), shall be deemed to have been inserted with effect from the 1st day of February, 2019;

(b) in sub-section (2), in clause (d), the words "goods or" shall be omitted; and

(c) in sub-section (2A), in clause (c), the words "goods or" shall be omitted.

Amendment

in section 10 of Punjab Act 5 of 2017.

Amendment in section 16 of Punjab Act 5 of 2017.

Amendment in section 17 of Punjab Act 5 of

4. In the principal Act, in section 16, in sub-section (2),—
- (i) in the second proviso, for the words "added to his output tax liability, along with interest thereon", the words and figures "paid by him along with interest payable under section 50" shall be substituted; and
 - (ii) in the third proviso, after the words "made by him", the words "to the supplier" shall be inserted.
5. In the principal Act, in section 17,—
- (a) in sub-section (3), in the Explanation, for the words and figure "except those specified in paragraph 5 of the said Schedule", the following shall be substituted, namely:—
"except,—
 - (i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and
 - (ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule."; and
 - (b) in sub-section (5), after clause (f), the following clause shall be inserted, namely:—
"(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;"
6. In the principal Act, in section 23, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—
"(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."
7. In the principal Act, in section 24,-
- (a) in clause (xi), the word "and" occurring at the end, shall be omitted;
 - and
 - (b) after clause (xi), the following clause shall be inserted, namely:—
"(xia) every person supplying online money gaming from a place outside India to a person in India; and"
8. In the principal Act, in section 30, in sub-section (1),—

2017.

Amendment
in section 23 of Punjab
Act 5 of
2017.

Amendment in section
24 of Punjab Act 5 of
2017.

Amendment in section
30 of Punjab Act 5 of
2017.

Amendment in section
37 of Punjab Act 5 of
2017.

(a) for the words and sign "the prescribed manner within thirty days from the date of service of the cancellation order:", the words and signs "such manner, within such time and subject to such conditions and restrictions, as may be prescribed." shall be substituted; and

(b) the proviso shall be omitted.

9. In the principal Act, in section 37, after sub-section (4), the following sub-section shall be added, namely:—

"(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the

10. In the principal Act, in section 39, after sub-section (10), the following sub-section shall be added, namely:—

"(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return."

11. In the principal Act, the existing provision of section 44 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:—

"(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of

Amendment
in section 39 of Punjab
Act 5 of
2017.

Amendment in section
44 of Punjab Act 5 of
2017.

Amendment in section
52 of Punjab Act 5 of
2017.

the said period of three years from the due date of furnishing the said annual return."

12. In the principal Act, in section 52, after sub-section (14), the following sub-section shall be added, namely:—

"(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4),

even after the expiry of the said period of three years from the due date of furnishing the said statement."

Amendment in section 54 of Punjab Act 5 of 2017.

13. In the principal Act, in section 54, in sub-section (6), the words and sign "excluding the amount of input tax credit provisionally accepted," shall be omitted.

Amendment in section 56 of Punjab Act 5 of 2017.

14. In the principal Act, in section 56, for the words "from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax", the words "for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed" shall be substituted.

Amendment in section 62 of Punjab Act 5 of 2017.

Amendment in section 109 of Punjab Act 5 of 2017.

15. In the principal Act, in section 62, in sub-section (2),—

(a) for the words "thirty days", the words "sixty days" shall be substituted; and

(b) the following proviso shall be added, namely:—

"Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue."

16. In the principal Act, in section 109,-

(a) for the existing heading, the following heading shall be substituted, namely:-

"Constitution of Appellate Tribunal and Benches thereof."; and
(b) in sub-section (2), for the words "the State Bench and the Area Benches located in the State", the words "the State Benches" shall be substituted.

Financial and Administrative powers of Vice- President.

19. In the principal Act, in section 117,—

(a) in sub-section (1), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted; and
(b) in sub-section (5), in clauses (a) and (b), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted.

Amendment

in section 117 of Punjab Act 5 of 2017.
Amendment in section 118 of Punjab Act 5 of 2017.

20. In the principal Act, in section 118, in sub-section (1), in clause (a), for the words "National Bench or Regional Benches", the words "Principal Bench" shall be substituted.

Amendment in section 119 of Punjab Act 5 of 2017.

21. In the principal Act, in section 119,—

(a) for the words "National or Regional Benches", the words "Principal Bench" shall be substituted; and
(b) for the words "State Bench or Area Benches", the words "State Benches" shall be substituted.

Amendment in section 122 of Punjab Act 5 of 2017.

22. In the principal Act, in section 122, after sub-section (1A), the following sub-section shall be added, namely:—

"(1B) Any electronic commerce operator who,—

(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act, shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher."

Amendment in section 132 of Punjab Act 5 of 2017.

Amendment in section 138 of Punjab Act 5 of 2017.

23. In the principal Act, in section 132, in sub-section (1),—

(a) clauses (g), (j) and (k) shall be omitted;

(b) in clause (l), for the words, brackets and letters "clauses (a) to (k)", the words, brackets and letters "clauses (a) to (f) and clauses (h) and (i)" shall be substituted;

(c) in clause (iii), for the words "any other offence", the words, brackets and letter "an offence specified in clause (b)" shall be substituted; and

(d) in clause (iv), the words, brackets and letters "or clause (g) or clause (j)" shall be omitted.

24. In the principal Act, in section 138,—

(a) in sub-section (1), in the first proviso,—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;"

(ii) clause (b) shall be omitted;

(iii) for clause (c), the following clause shall be substituted, namely:—

"(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;"

(iv) clause (e) shall be omitted; and

(b) in sub-section (2), for the words "ten thousand rupees or fifty per cent of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent of the tax, whichever is higher", the words

"twenty-five per cent of the tax involved and the maximum amount not being more than one hundred per cent of the tax involved" shall be substituted.

Insertion of new section 158A in Punjab Act 5

25. In the principal Act, after section 158, the following section shall be inserted, namely:—

"158A. (1) Notwithstanding anything contained in sections 133, 152 and Consent based notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

(c) such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of,-

(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and

(b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient, in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return."

26. In the principal Act, in Schedule III, in paragraph 6, for the words "lottery, betting and gambling", the words "specified actionable claims" shall be substituted.

27. (1) In the principal Act, in Schedule III, paragraphs 7 and 8 and the Explanation 2 thereof (as inserted vide Punjab Act No. 1 of 2019) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.

(2) No refund shall be made of all the tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

28. The amendments made under this Act shall be without prejudice to provisions of any other law for the time being in force, providing for prohibiting, restricting or regulating betting, casino, gambling, horse racing, lottery or online gaming.

MANDEEP PANNU,

Principal Secretary to Government of Punjab, Department of Legal and Legislative Affairs.

2992/12-2023/Pb. Govt. Press, S.A.S. Nagar

Amendment
in Schedule III to
Punjab Act 5 of 2017.

Retrospective
exemption to certain
activities and
transactions in
Schedule III to Punjab
Act 5 of 2017.

Transitory provision.

2. Notification No. S.O. 1/P.A.10/2023/S.1/2024

PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)
NOTIFICATION

The 29th December, 2023

No. S.O. 1/P.A.10/2023/S.1/2024.—In exercise of the powers conferred by sub-section (2) of section 1 of the Punjab Goods and Services Tax (Amendment) Act, 2023 (Punjab Act 10 of 2023), and all other powers enabling him in this behalf, the Governor of Punjab, is pleased to appoint,—

- (a) the 1st day of October, 2023, as the date on which the provisions of sections 3 to 28 (except sections 16 to 21) of the said Act shall be deemed to have come into force;
- (b) the 1st day of August, 2023, as the date on which the provisions of sections 16 to 21 of the said Act shall be deemed to have come into force.

VIKAS PRATAP,
Financial Commissioner (Taxation) to Government
of Punjab,
Department of Excise and Taxation.

(III) CIRCULAR

1. CIRCULAR No. 200/12/2023-GST

Circular No. 200/12/2023-GST

F. No. 190354/140/2023-TRU

**Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)**

North Block, New Delhi
Dated the 1st August, 2023

To,

**The Principal Chief Commissioners/ Chief Commissioners/ Principal
Commissioners/ Commissioners of Central Tax (All)**

The Principal Directors General / Directors General (All)

Madam/ Sir,

**Subject: Clarification regarding GST rates and classification of certain goods based on the
recommendations of the GST Council in its 50th meeting held on 11th July, 2023–reg.**

Based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023,
clarifications with reference to GST levy related to the following items are being issued through
this circular:

- i. Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion;
- ii. Fish Soluble Paste;
- iii. Desiccated coconut;
- iv. Biomass briquettes;
- v. Imitation zari thread or yarn known by any name in trade parlance;
- vi. Supply of raw cotton by agriculturist to cooperatives;
- vii. Plates, cups made from areca leaves
- viii. Goods falling under HSN heading 9021

2. Applicability of GST on un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion:

2.1 In the 48th meeting of the GST Council, it was clarified that the snack pellets (such as 'fryums'), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905 90 30, which covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18% vide S. No. 16 of Schedule-III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017.

2.2 In view of the recommendation of the GST Council in the 50th meeting, supply of uncooked/un-fried extruded snack pellets, by whatever name called, falling under CTH 1905 will attract GST rate of 5% vide S. No. 99B of Schedule I of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017 with effect from 27th July,2023. Extruded snack pellets in ready- to-eat form will continue to attract 18% GST under S. No. 16 of Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017.

2.2 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on the un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, the issue for past period upto 27.7.2023 is hereby regularized on "as is" basis.

3. Applicability of GST on Fish Soluble Paste:

3.1 Fish soluble paste attracted 18% under the residual entry S No. 453 of Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017. As per recommendation of the GST Council, GST on fish soluble paste, falling under CTH 2309, has been reduced to 5%. Accordingly, the rate has been notified vide S. No. 108A with effect from 27th July,2023.

3.2 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on fish soluble paste, the issue for past period upto 27.7.2023 is hereby regularized on "as is" basis.

4. Desiccated coconut- Regularisation of the issue for past period from 01.07.2017 up to and inclusive of 27.07.2017:

As per recommendation of the GST Council, in view of the prevailing genuine interpretational issues regarding the applicability of GST rate on the desiccated coconut, falling under CTH 0801, the issue for past period from 01.07.2017 up to and inclusive of 27.07.2017 is hereby regularized on "as is" basis.

5. Biomass briquettes- Regularisation of the issue for past period from 01.07.2017 up to and inclusive of 12.10.2017:

As per recommendation of the GST Council, in view of the prevailing genuine interpretational issues regarding the applicability of GST rate on the Biomass briquettes, falling under any chapter, the issue for past period from 01.07.2017 up to and inclusive of 12.10.2017 is hereby regularized on “as is” basis.

6. Supply of raw cotton by agriculturist to cooperatives:

- 6.1 As per recommendation of the GST Council, it is hereby clarified that supply of raw cotton, including kala cotton, from agriculturists to cooperatives is a taxable supply and such supply of raw cotton by agriculturist to the cooperatives (being a registered person) attracts 5% GST on reverse charge basis under notification no. 43/2017-Central Tax (Rate) dated 14th November, 2017.
- 6.2 In view of prevailing genuine doubts, the issue for the past periods prior to issue of this clarification is hereby regularized on “as is basis”.

7. GST rate on Imitation Zari thread or yarn known by any name in trade parlance:

- 7.1 In the 15th Council meeting, the Council agreed to tax embroidery or zari articles i.e., imi, zari, kasab, saima, dabka, chumki, gota, sitara, naqsi, kora, glass beads, badla, gizai at the rate of 5%. Based on the recommendation of the 28th GST Council, it was clarified that imitation zari thread or yarn known as “Kasab” or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.
- 7.2 As per the recommendation of the GST Council in its 50th meeting, GST on imitation zari thread or yarn known by any name in trade parlance has been reduced from 12% to 5%. Accordingly, the rate has been notified vide S. No. 218AA with effect from 27th July, 2023.
- 7.2. In view of the confusion in the trade regarding the applicability of GST rate on these products, the issue for past period upto 27.7.2023 is hereby regularized on “as is” basis.

8. Plates, cups made from areca leaves

As per the recommendation of the GST Council, issues relating to GST on plates and cups made from areca leaves are hereby regularized on “as is basis” for the period prior to 01.10.2019.

9. GST rate on goods falling under HSN 9021

- 9.1 Representations have been received seeking clarification regarding the GST rates applicable on trauma, spine and arthroplasty implants falling under HSN heading 9021 for the period before 18.07.2022 stating that there are interpretational issues due to the duality of rates on similar items leading to ambiguity. The issue has arisen as prior to 18.07.2022 there existed two rates on the goods falling under HSN heading 9021 as per S. No. 257 of schedule I and S. No. 221 of schedule II of notification no. 01/2017-CT (Rate) dated 28.06.2017.

- 9.2 The issue was examined by GST Council in its 47th meeting and as per its recommendations, a single uniform rate of 5% was prescribed for such goods (except hearing aid, which continued to attract Nil under S.N. 142 of 02/2017-CT(Rate)) falling under HSN heading 9021 with effect from 18.07.2022.
- 9.3 As per recommendations of the GST council in its 50th Meeting, it is hereby clarified that the GST rate on all such goods falling under heading 9021 would attract a GST rate of 5% and in view of prevailing genuine doubts, the issue for the past periods is hereby regularized on “as is basis”. However, it is clarified that no refunds will be granted in cases where GST has already been paid at higher rate of 12%.
- 10.** It is further clarified that no refunds will be granted where GST has already been paid in any of the above cases.
- 11.** Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

(Nitin Gupta)
Technical Officer
TRU-I

2. CIRCULAR No. 201/13/2023-GST

Circular No. 201/13/2023-GST

F. No. 190354/133/2023-TRU

Government of India

Ministry of Finance

Department of Revenue

North Block, New Delhi,
Dated the 1st August, 2023

To,

**The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals
(All)**

Madam/Sir,

Subject: Clarifications regarding applicability of GST on certain services – reg.

Representations have been received seeking clarifications on the following issues

- 1.** Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism;
- 2.** Whether supply of food or beverages in cinema hall is taxable as restaurant service.

The above issues have been examined by GST Council in the 50th meeting held on 11th July, 2023. The issue -wise clarifications as recommended by the Council are given below:

Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism:

2. Reference has been received requesting for clarification whether services supplied by a director of a company or body corporate in personal or private capacity, such as renting of immovable property to the company, are taxable under Reverse Charge Mechanism (RCM) or not.

- 2.1 Entry No. 6 of notification No. 13/2017 CTR dated 28.06.2017 provides that tax on services supplied by director of a company or a body corporate to the said company or the body corporate shall be paid by the company or the body corporate under Reverse Charge Mechanism.

2.2 It is hereby clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No.

13/2017-CTR (Sl. No. 6) dated 28.06.2017.

Whether supply of food or beverages in cinema hall is taxable as restaurant service:

3. References have been received requesting for clarification whether supply of food and beverages at cinema halls is taxable as restaurant service which attract GST at the rate of 5% or not.

3.1 As per Explanation at Para 4 (xxxii) to notification No. 11/2017-CTR dated 28.06.2017,

“Restaurant Service’ means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.”

3.2 Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

3.3 The cinema operator may run these refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

3.4 It is hereby clarified that supply of food or beverages in a cinema hall is taxable as ‘restaurant service’ as long as:

- a) the food or beverages are supplied by way of or as part of a service, and
- b) supplied independent of the cinema exhibition service.

3.5 It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of

composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

4. Difficulties, if any, in implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

(Rajeev Ranjan)

Under Secretary, TRU

3. **CIRCULAR No. 202/14/2023-GST**

Circular No. 202/14/2023-GST

F.No. 20/06/22/2023-GST-CBEC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, the 27th October, 2023

To

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners /

Commissioners of Central Tax (All)

The Principal Directors General / Directors General (All)

Madam / Sir,

Subject: Clarification relating to export of services – sub-clause (iv) of the Section 2 (6) of the IGST Act 2017–reg.

Various representations have been received requesting for clarification regarding admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services as per the provisions of clause (6) of section 2 of the Integrated Goods & Services Tax Act, 2017 (herein after referred to as the 'IGST Act').

2. The issue has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods & Services Tax Act, 2017 (herein after referred to as the 'CGST Act'), hereby clarifies the issue as under:

3. **Relevant legal provisions:**

3.1 Export of services has been defined under clause (6) of section 2 of IGST Act. As per the said definition, any supply of services needs to fulfill five conditions for it to qualify as export of services. Clause (6) of section 2 of the IGST Act is reproduced below for reference:

“(6) “export of services” means the supply of any service when, –

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) **the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and**
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;”

3.2 One of the conditions mentioned in sub-clause (iv) of Section 2(6) of the IGST Act is that the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India.

3.3 Reference is invited to RBI’s *A.P. (DIR Series) Circular No.10 dated 11th July, 2022 regarding International Trade Settlement in Indian Rupees (INR)*, vide which it has been clarified that to promote growth of global trade with emphasis on exports from India and to support the increasing interest of global trading community in INR, it has been decided to put in place an **additional arrangement for invoicing, payment, and settlement of exports / imports in INR**. Before putting in place this mechanism, AD banks shall require prior approval from the Foreign Exchange Department of Reserve Bank of India, Central Office at Mumbai. Para 3 of the Circular is reproduced below:

“3. In terms of Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, AD banks in India have been permitted to open Rupee Vostro Accounts.

Accordingly, for settlement of trade transactions with any country, AD bank in India may open Special Rupee Vostro Accounts of correspondent bank/s of the partner trading country. In order to allow settlement of international trade transactions through this arrangement, it has been decided that:

(a) *Indian importers undertaking imports through this mechanism shall make payment in INR which shall be credited into the Special Vostro account of the correspondent bank of the partner country, against the invoices for the supply of goods or services from the overseas seller /supplier.*

(b) ***Indian exporters, undertaking exports of goods and services through this mechanism, shall be paid the export proceeds in INR from the balances in the designated Special Vostro account of the correspondent bank of the partner country.”***

3.4 Reference is also invited to Para 2.52 (d) of chapter related to General Provisions Regarding Imports and Exports of the Foreign Trade Policy (FTP) 2023, which has come into force from 01.04.2023, which specifies that:

Para 2.52 (d) Invoicing, payment and settlement of exports and imports is also permissible in INR subject to compliances as under RBI's A.P. (DIR Series) Circular No.10 dated 11th July, 2022. Accordingly, settlement of trade transactions in INR shall take place through the Special Rupee Vostro Accounts opened by AD banks in India as permitted under Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, in accordance to the following procedures:

(i) Indian importers undertaking imports through this mechanism shall make payment in INR which shall be credited into the Special Vostro account of the correspondent bank of the partner country, against the invoices for the supply of goods or services from the overseas seller /supplier

(ii) Indian exporters, undertaking exports of goods and services through this mechanism, shall be paid the export proceeds in INR from the balances in the designated Special Vostro account of the correspondent bank of the partner country.

3.5 On perusal of the above, it can be stated that the condition(s) of sub-clause (iv) of Section 2(6) of the IGST Act, 2017, can be considered to be fulfilled when the Indian exporters, undertaking exports of services, are paid the export proceeds in INR from the balances in the designated Special Vostro Account of the correspondent bank of the partner trading country in terms of Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, as mandated by RBI's A.P. (DIR Series) Circular No.10 dated 11th July, 2022 and reiterated further in Foreign Trade Policy, 2023.

4. Therefore, it is clarified that when the Indian exporters, undertaking export of services, are paid the export proceeds in INR from the Special Rupee Vostro Accounts of correspondent bank(s) of the partner trading country, opened by AD banks, the same shall be considered to be fulfilling the conditions of sub-clause (iv) of clause (6) of section 2 of IGST Act, 2017, subject to the conditions/ restrictions mentioned in Foreign Trade Policy, 2023 & extant RBI Circulars and without prejudice to the permissions / approvals, if any, required under any other law .
5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Sanjay
Mangal) Principal
Commissioner(GST)

4. CIRCULAR No. 203/15/2023-GST

Circular No. 203/15/2023-GST

F. No. 20/06/22/2023-GST-CBEC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs,
GST Policy Wing

New Delhi, dated the 27th October, 2023

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/

S.No.	Issue	Clarification
A. Place of supply in case of supply of service of transportation of goods, including through mail and courier		
1.	Sub-section (9) of section 13 of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act") has been omitted vide section 162	1.1 Place of supply of services where location of supplier or location of recipient is outside India is determined as per section 13 of the IGST Act. Sub-

Commissioners of Central Tax (All)

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification regarding determination of place of supply in various cases-reg.

Representations have been received from the trade and field formations seeking clarification on certain issues with respect to determination of place of supply in case of –

- i. supply of service of transportation of goods, including through mail and courier;
- ii. supply of services in respect of advertising sector; and
- iii. supply of the “co-location services”.

In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and

Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues as under:

S.No.	Issue	Clarification
A. Place of supply in case of supply of service of transportation of goods, including through mail and courier		
1	<p>Sub-section (9) of section 13 of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as “IGST Act”) has been omitted vide section 162 of Finance Act, 2023 which will come into effect from 01.10.2023. After the said amendment, doubts have been raised as to whether the place of supply in case of service of transportation of goods, including through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India, will be determined as per sub-section (2) of section 13 of IGST Act or will be determined as per sub-section (3) of section 13 of IGST Act.</p>	<p>1.1 Place of supply of services where location of supplier or location of recipient is outside India is determined as per section 13 of the IGST Act. Sub-section (9) of section 13 of IGST Act provided that where one of the supplier of the services or the recipient of services is located outside India, the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. The said sub-section has been omitted vide section 162 of Finance Act, 2023 which will come into effect from 01.10.2023. It is hereby clarified that after the said amendment comes into effect, the place of supply of services of transportation of goods, other than through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India, will be determined by the default rule under section 13(2) of IGST Act and not as performance based services under sub-section (3) of section 13 of IGST Act. Accordingly, in cases where location of recipient of services is available, the place of supply of such services shall be the location of recipient of services and in cases where location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.</p> <p>1.2 Further, it is also mentioned that the place of supply in case of service of transportation of goods by mail or courier was not covered under the provisions of sub-section (9) of section 13 before the said sub-section was amended/ omitted. Therefore, on the same principles as mentioned above, the place of supply in case of service of transportation of goods by mail or courier will continue to be determined by the default rule under section 13(2) of IGST Act i.e. in cases where location of recipient of services is available, the place of supply of such</p>

		<p>services shall be the location of recipient of services and in cases where location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.</p>
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B. Place of supply in case of supply of services in respect of advertising sector

<p>2</p>	<p>Advertising companies are often involved in procuring space on hoardings/ bill boards erected and mounted on buildings/land, in different States, from various suppliers (“vendors”) for providing advertisement services to its corporate clients. There may be variety of arrangements between the advertising company and its vendors as below:</p> <p>(i) There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?</p> <p>(ii) There may be another case where the advertising company wants to display its advertisement on hoardings/ bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ bill boards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertisement company</p>	<p>2.1 It is clarified that the place of supply in the case supply of services in respect of advertising sector, in the cases referred in (i) and (ii), shall be determined as below:</p> <p>2.2 Place of supply in Case (i): The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of IGST Act. As per section 12(3)(a) of IGST Act, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the location at which the immovable property is located. Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/</p>
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	<p>at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. In this case, what will be the place of supply of such services provided by the vendor to the advertising company?</p>	<p>structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.</p> <p>2.3 Place of supply in Case (ii): In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property. Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location. Therefore, such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which Place of Supply shall be determined in terms of Section 12(2) of IGST Act.</p>
C. Place of supply in case of supply of the “co-location services”		
3	<p>Co-location is a data center facility in which a business/company can rent space for its own servers and other computing hardware along with various other bundled services related to Hosting and information technology (IT) infrastructure. A business/company who avails the colocation services primarily seek security and upkeep of its server/s, storage and network hardware; operating systems, system software and may require to interact with the system through a webbased interface for the hosting of its websites or other applications and operation of the servers.</p> <p>In this respect, various doubts have been raised as to</p> <p>i. whether supply of co-location services are renting of immovable property service (as it involves renting of space for keeping/storing company's hardware/servers) and hence the place of supply of such services is to be determined in terms of provision of clause (a) of</p>	<p>3.1 It is clarified that the Co-location services are in the nature of “Hosting and information technology (IT) infrastructure provisioning services” (S.No. 3 of Explanatory notes of SAC998315). Such services do not appear to be limited to the passive activity of making immovable property available to a customer as the arrangement of the supply of colocation services not only involves providing of a physical space for server/network hardware along with air conditioning, security service, fire protection system and power supply but it also involves the supply of various services by the supplier related to hosting and information technology infrastructure services like network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for the recipient</p>

<p>subsection (3) of Section 12 of the IGST Act which is the location where the immovable property is located; or</p> <p>ii. whether the place of supply of such services is to be determined by the default place of supply provision under sub-section (2) of section 12 of the IGST Act as the supply of service is Hosting and Information Technology (IT) Infrastructure Provisioning services involving providing services of hosting the servers and related hardware, security of the said hardware, air conditioning, uninterrupted power supply, fire protection system, network connectivity, backup facility, firewall services, 24 hrs. monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc.</p>	<p>business/company to interact with the system through a web based interface relating to the hosting and operation of the servers.</p> <p>3.2 In such cases, supply of colocation services cannot be considered as the services of supply of renting of immovable property. Therefore, the place of supply of the colocation services shall not be determined by the provisions of clause (a) of sub-section (3) of Section 12 of the IGST Act but the same shall be determined by the default place of supply provision under sub-section (2) of Section 12 of the IGST Act i.e. location of recipient of co-location service.</p> <p>3.3 However, in cases where the agreement between the supplier and the recipient is restricted to providing physical space on rent along with basic infrastructure, without components of Hosting and Information Technology (IT) Infrastructure Provisioning services and the further responsibility of upkeep, running, monitoring and surveillance, etc. of the servers and related hardware is of recipient of services only, then the said supply of services shall be considered as the supply of the service of renting of immovable property. Accordingly, the place of supply of these services shall be determined by the provisions of clause (a) of sub-section (3) of Section 12 of the IGST Act which is the location where the immovable property is located.</p>
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3. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)
Principal Commissioner (GST)

5. **CIRCULAR NO. 204/16/2023-GST**

Circular No. 204/16/2023-GST

**F. No. 20/06/22/2023-GST-CBEC Government
of India**

Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 27th October, 2023

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal

Commissioners/ Commissioners of Central Tax (All)

The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST-reg.

Representations have been received from the trade and field formations seeking clarification on certain issues with respect to taxability of activity of providing personal bank guarantee by Directors to banks for securing credit facilities for the company. Similarly, clarifications are being sought with respect to taxability and valuation of the activity of providing corporate guarantee by a related person to banks/financial institutions for another related person, as well as by a holding company in order to secure credit facilities for its subsidiary company.

2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
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1.	<p>Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not.</p>	<p>As per Explanation (a) to section 15 of CGST Act, the director and the company are to be treated as related persons. As per clause (c) of sub-section (1) of section 7 of the CGST Act, 2017, read with S. No. 2 of Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply even if made without consideration. Accordingly, the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.</p> <p>Rule 28 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) prescribes the method for determining the value of the supply of goods or services or both between related parties, other than where the supply is made through an agent. In terms of Rule 28 of CGST Rules, the taxable value of such supply of service shall be the open market value of such supply.</p> <p>RBI has provided guidelines for obtaining personal guarantee of promoters, directors and other managerial personnel of the borrowing concerns vide Para 2.2.9 of its Circular No. RBI/2021-22/121 dated 9th November, 2021, which is reproduced below:</p> <p><i>“2.2.9 Guidelines relating to obtaining of personal guarantees of promoters, directors, other managerial personnel, and shareholders of borrowing concerns</i></p> <p><i>Banks should take personal guarantees of promoters, directors, other managerial</i></p>
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personnel or major shareholders for the credit facilities granted to corporates, public or private, only when absolutely warranted after a careful examination of the circumstances of the case and not as a matter of course. In order to identify the circumstances under which the guarantee may or may not be considered necessary, banks should be guided by the following broad considerations:

.....

C. Worth of the guarantors, payment of guarantee commission, etc

Where personal guarantees of directors are warranted, they should bear reasonable proportion to the estimated worth of the person. The system of obtaining guarantees should not be used by the directors and other managerial personnel as a source of income from the company. Banks should obtain an undertaking from the borrowing company as well as the guarantors that no consideration whether by way of commission, brokerage fees or any other form, would be paid by the former or received by the latter, directly or indirectly. This requirement should be incorporated in the bank's terms and conditions for sanctioning of credit limits. During the periodic inspections, the bank's inspectors should verify that this stipulation has been complied with. There may, however, be exceptional cases where payment of remuneration may be permitted e.g. where assisted concerns are not doing well and the existing guarantors are no longer connected with the management but continuance of their guarantees is considered essential because the new management's guarantee is either not available or is found inadequate.

.....”

Accordingly, as per mandate provided by

	<p>RBI in terms of Para 2.2.9 (C) of RBI's Circular No. RBI/2021-22/121 dated 9th November, 2021, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits. As such, when no consideration can be paid for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/ transaction having any open market value. Accordingly, the open market value of the said transaction/ supply may be treated as zero and therefore, taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.</p> <p>There may, however, be cases where the director, who had provided the guarantee, is no longer connected with the management but continuance of his guarantee is considered essential because the new management's guarantee is either not available or is found inadequate, or there may be other exceptional cases where the promoters, existing directors, other managerial personnel, and shareholders of borrowing concerns are paid remuneration/ consideration in any manner, directly or indirectly. In all these cases, the taxable value of such supply of service shall be the remuneration/ consideration provided to such a person/ guarantor by the company, directly or indirectly.</p>
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2.	<p>Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.</p>	<p>Where the corporate guarantee is provided by a company to the bank/financial institutions for providing credit facilities to the other company, where both the companies are related, the activity is to be treated as a supply of service between related parties as per provisions of Schedule I of CGST Act, even when made without any consideration.</p> <p>Similarly, where the corporate guarantee is provided by a holding company, for its subsidiary company, those two entities also fall under the category of 'related persons'. Hence the activity of providing corporate guarantee by a holding company to the bank/financial institutions for securing credit facilities for its subsidiary company, even when made without any consideration, is also to be treated as a supply of service by holding company to the subsidiary company, being a related person, as per provisions of Schedule I of CGST Act.</p> <p>In respect of such supply of services by a person to another related person or by a holding company to a subsidiary company, in form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value will be determined as per rule 28 of CGST Rules.</p> <p>Considering different practices being followed by the field formations and taxpayers in determining such taxable value, in order to provide uniformity in practices and ease of implementation, sub-rule (2) has been inserted in rule 28 of CGST Rules vide Notification No. 52/2023 dated 26.10.2023, for determining the taxable value of such supply of services between related persons in respect of providing corporate guarantee. Accordingly, consequent to insertion of the said sub-rule in rule 28 of CGST Rules, in all such cases of supply of services by a related person to another person,</p>
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	<p>or by a holding company to a subsidiary company, in the form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value of such supply of services, will henceforth be determined as per the provisions of the sub-rule (2) of Rule 28 of CGST Rules, irrespective of whether full ITC is available to the recipient of services or not.</p> <p>It is clarified that the sub-rule (2) of Rule 28 shall not apply in respect of the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies and the same shall be valued in the manner provided in S. No. (1) above.</p>
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3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
4. Difficulties, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay
Mangal) Principal
Commissioner (GST)

6. CIRCULAR NO. 205/17/2023-GST

Circular No. 205/17/2023-GST

F. No. CBIC-190354/195/2023-TO(TRU-II)

Government of India Ministry of Finance

Department of Revenue

(Tax Research Unit)

North Block, New

Delhi Date: 31st

October, 2023

To,

Principal Chief Commissioners/ Principal Directors General,

Chief Commissioners/ Directors General,

**Principal Commissioners/ Commissioners of Central Excise & Central
Tax**

Madam/ Sir,

Subject: Clarification regarding GST rate on imitation zari thread or yarn based on the recommendation of the GST Council in its 52nd meeting held on 7th October, 2023 –reg.

The GST Council in its 50th meeting had recommended reduction of GST rate to 5% on imitation zari thread or yarn known by any name in trade parlance, following which Sl. No. 218AA had been inserted in Schedule I of notification no. 1/2017- Central Tax (Rate) dated 28.6.2017.

2. Doubts have been raised whether metal coated plastic film converted to metallised yarn and twisted with nylon, cotton, polyester or any other yarn to make imitation zari thread is covered under Sl No. 218AA of Schedule I covering imitation zari thread or yarn, and attracting 5% GST, or under Sl No. 137 of Schedule II covering other metallised yarn attracting 12% GST. As per HS Explanatory Notes, the heading 5605 covers – (1) yarn consisting of any textile material (including monofilament , strip and the like and paper yarn) combined with metal thread or strip, whether obtained by a process of twisting, cabling or by gimping, whatever the proportion of the metal present (2) yarn of any textile material (including monofilament , strip and the like and paper yarn) covered with metal by any other process including yarn covered with metal by electro-deposition. The heading also covers products consisting

of a core of metal foil (generally of aluminum) or of a core of plastic film coated with metal dust, sandwiched by means of an adhesive between two layers of plastic film.

3. In light of the above, the GST Council has recommended to clarify that imitation zari thread or yarn made from metallised polyester film/ plastic film falling under HS 5605 are covered by SI No. 218AA of Schedule I attracting 5% GST. The GST Council has also recommended that no refund will be permitted on polyester film (metallised)/plastic film on account of inversion of tax rate. Requisite changes have been made in notification no. 5/2017- Central Tax (Rate) vide Notification no 20/2023-Central Tax (Rate) dated 19.10.2023.

4 Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

Dibyalok
Technical Officer , TRU

7. CIRCULAR NO. 206/18/2023-GST

Circular No. 206/18/2023-GST

F. No. CBIC-190354/195/2023-TO (TRU-II)-CBEC

**Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)**

North Block, New
Delhi Dated the 31st
October, 2023

**To,
The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioner of Central Tax (All) / The Principal Director Generals/ Director Generals
(All)**

Madam/Sir,

Subject: Clarifications regarding applicability of GST on certain services – reg.

Based on the recommendations of the GST Council in its 52nd meeting held on 7th October, 2023 ,at New Delhi, clarification, with reference to GST levy, related to the following issues are being issued through this circular.

- i. Whether 'same line of business' in case of passenger transport service and renting of motor vehicles includes leasing of motor vehicles without operators.
- ii. Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.
- iii. Whether job work for processing of "Barley" into "Malted Barley" attracts GST @ 5% as applicable to "job work in relation to food and food products" or 18% as applicable on "job work in relation to manufacture of alcoholic liquor for human consumption".
- iv. Whether District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.

- v. Whether supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST under Sr. No. 3 and 3A of Notification no 12/2017-CTR dated 28.06.2017.

2. Whether 'same line of business' in case of passenger transport service and renting of motor vehicles includes leasing of motor vehicles without operators.

- 2.1 Services of transport of passengers by any motor vehicle (SAC 9964) and renting of motor vehicle designed to carry passengers with operator (SAC 9966), where the cost of fuel is included in the consideration charged from the service recipient attract GST at the rate of 5% with input tax credit of services in the same line of business.

- 2.2 Same line of business as stated in the notification No. 11/2017- Central Tax (Rate) means *“service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle”*.

- 2.3 It is hereby clarified that input services in the same line of business include transport of passengers (SAC 9964) or renting of motor vehicle with operator (SAC 9966) and not leasing of motor vehicles without operator (SAC 9973) which attracts GST and/or compensation cess at the same rate as supply of motor vehicles by way of sale.

3. Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.

- 3.1 Doubts were raised on the applicability of GST on supply of electricity by the real estate companies, malls, airport operators etc., to their lessees or occupants.

- 3.2 It is clarified that whenever electricity is being supplied bundled with renting of immovable property and/or maintenance of premises, as the case may be, it forms a part of composite supply and shall be taxed accordingly. The principal supply is renting of immovable property and/or maintenance of premise, as the case may be, and the supply of electricity is an ancillary supply as the case may be. Even if electricity is billed separately, the supplies will constitute a composite supply and therefore, the rate of the principal supply i.e., GST

rate on renting of immovable property and/or maintenance of premise, as the case may be, would be applicable.

- 3.3 However, where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers etc., as a pure agent, it will not form part of value of their supply. Further, where they charge for electricity on actual basis that is, they charge the same amount for electricity from their lessees or occupants as charged by the State Electricity Boards or DISCOMs from them, they will be deemed to be acting as pure agent for this supply.

4. Whether job work for processing of “Barley” into “Malted Barley” attracts GST @ 5% as applicable to "job work in relation to food and food products" or 18% as applicable on “job work in relation to manufacture of alcoholic liquor for human consumption”.

- 4.1 References have been received to clarify whether services by way of job work for conversion of barley into malt attracts GST at 5% prescribed for "job work in relation to all food and food products falling under Chapter 1 to 22 of the customs tariff" or at the rate of 18% prescribed for "services by way of job work in relation to manufacture of alcoholic liquor for human consumption".

- 4.2 Malt is a food product. It can be directly consumed as part of food preparations or can be used as an ingredient in food products and also used for manufacture of beer and alcoholic liquor for human consumption. However, irrespective of end-use, conversion of barley into malt amounts to job work in relation to food products.

- 4.3 It is hereby clarified that job work services in relation to manufacture of malt are covered by the entry at Sl. No. 26 (i) (f) which covers “job work in relation to all food and food products falling under chapters 1 to 22 of the customs tariff” irrespective of the end use of that malt and attracts 5% GST.

5. Whether District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.

- 5.1 DMFTs work for the interest and benefit of persons and areas affected by mining related operations by regulating receipt and expenditure from the respective Mineral Development Funds created in the concerned district. They provide services related to drinking water supply, environment protection, health care facilities, education, welfare of women and children, supply of medical equipment etc.
- 5.2 These activities are similar to activities that are enlisted in Eleventh Schedule and Twelfth Schedule of the Constitution. The ultimate users of the various schemes under DMF are individuals, families, women and children, farmers/producer groups, SHGs of the mining affected areas etc. The services/supplies out of DMF fund are provided free of charge and no consideration is realized from the beneficiaries by DMF against such services.
- 5.3 Accordingly, it is clarified that DMFT set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.

6. Whether supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST under Sr. No. 3 and 3A of Notification no 12/2017-CTR dated 28.06.2017.

- 6.1 Public parks in government residential colonies, government offices and other public areas are developed and maintained by CPWD.
- 6.2 Maintenance of community assets, urban forestry, protection of the environment and promotion of ecological aspects are functions entrusted to Panchayats and Municipalities under Article 243G and 243W read with Sr. No. 29 of 11th Schedule and Sr. No. 8 of 12th Schedule of the constitution.
- 6.3 Sr. No. 3 and 3A of notification No. 12/2017-CTR exempt pure services and composite supply of goods and services in which value of goods does not constitute more than 25%, that are provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under

article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

6.4 Accordingly, it is clarified that supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST under Sr. No.

3 and 3A of Notification no 12/2017-CTR dated 28.06.2017.

7. Difficulties, if any, in implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

(Rajeev Ranjan) Under Secretary, TRU

(IV) ADVANCE RULING

1. GST rate on sale of Land and Duplex on execution of two separate Agreements

Case Name : In re NBER Developers LLP (GST AAR Odisha)

Appeal Number : Advance Ruling No. 03/ODISHA-AAR/2023-24

Date of Judgement/Order : 01/12/2023

Related Assessment Year :

Courts : AAR Odisha (39) Advance Rulings (3501)

In re NBER Developers LLP (GST AAR Odisha)

Introduction: The realm of Goods and Services Tax (GST) in India has seen its fair share of complexities, particularly in the real estate sector. A recent ruling by the GST Authority for Advance Ruling (AAR) in Odisha has brought forth questions about the applicability of GST rates on the sale of land and duplex. In this extensive exploration, we unravel the nuances of this ruling, delving into its implications, understanding the rates involved, and scrutinizing the eligibility for input tax credits.

Detailed Analysis:

- i. Background and Applicant's Submission:** NBER Developers LLP, the applicant in question, sought clarity on the GST rate concerning the sale of land and the construction of a duplex on the same piece of land. The crux of their argument was rooted in the belief that the sale of developed land falls under Schedule III, exempting it from GST implications.
- ii. Memorandum of Agreement and Power of Attorney:** A critical aspect of the ruling lies in dissecting the legal documents submitted by NBER Developers LLP. The AAR scrutinized the Memorandum of Agreement and the Power of Attorney, discovering that the developer was authorized, through the Power of Attorney, for the commercial exploitation of the land, including the construction of multi-storied

buildings. The agreements with buyers were meticulously analyzed, revealing charges for land, common areas, and services related to construction.

iii. Applicability of GST: The heart of the matter lay in determining the GST applicability. The AAR concluded that the transaction indeed constituted taxable supplies, citing Schedule II, Para 5 Clause (b) of the CGST Act. As a result, the developer was deemed liable to pay GST at a rate of 7.5% (CGST 3.75% + SGST 3.75%). A noteworthy deduction of one-third towards land cost was permitted, establishing an effective GST rate of 5%. Intriguingly, the ruling asserted that input tax credit was not admissible on inward supplies.

iv. Comparison with Previous AAR Rulings: To deepen our understanding, a comparative analysis was conducted with previous AAR decisions in Haryana, Goa, and Karnataka. These rulings, which generally favored the non-taxability of developed plots, were contrasted against the nuanced perspectives of the AAR Odisha. The divergence in facts and circumstances emerged as a key factor in the Odisha ruling.

Exploring the Distinctions:

Now, let's delve deeper into the distinctive features that set this ruling apart from previous judgments:

- **Land Development at Buyer's Behest:** The Odisha ruling underscored that the development of land was initiated by the developer at the request of the buyer. This crucial distinction positioned the transaction as one not solely limited to the sale of land but encompassing the construction of a duplex or multi-storied building.
- **Intrinsic Part of Plot Allotment:** The agreements with buyers revealed a comprehensive approach to pricing. Charges for land, common areas, internal and external development, taxes, and various other amenities were all bundled into the total price of the plot. This bundling strategy reinforced the idea that the

transaction wasn't a straightforward sale of land but an intricate process involving multiple components.

Implications for Stakeholders:

As stakeholders grapple with the repercussions of this ruling, several considerations come to the forefront:

- i. GST Compliances for Developers:** Developers in the real estate sector need to meticulously evaluate their transactions in light of this ruling. The imposition of GST at a specific rate, coupled with the denial of input tax credit, necessitates a thorough understanding of the tax implications on the overall project cost.
- ii. Buyer's Perspective:** From the buyer's standpoint, the inclusion of various charges in the total price might lead to increased costs. Understanding the breakdown of these charges becomes imperative for buyers aiming to make informed decisions in the real estate market.
- iii. Professional Advisory:** The complexities elucidated by this ruling emphasize the importance of seeking professional advice. Tax experts well-versed in GST regulations can guide both developers and buyers through the intricacies of these transactions, ensuring compliance with the latest guidelines.

Conclusion:

In conclusion, the GST AAR Odisha ruling sheds light on the evolving landscape of taxation in real estate transactions. The intricate details of the agreements, the development initiated at the buyer's request, and the bundling of charges all contribute to a nuanced understanding of the transaction at hand. As the real estate sector adapts to these complexities, stakeholders must stay abreast of evolving GST regulations, seeking professional advice to navigate the intricate web of compliance and financial implications.

2. AAR Telangana allows Withdrawal of Application by DRS Cargo Movers

Case Name : In re DRS Cargo Movers Private Limited (GST AAR Telangana)

Appeal Number : TSAAR Order No.25/2023

Date of Judgement/Order : 15/12/2023

Related Assessment Year : Courts : AAR Telangana (157) Advance Rulings (3501)

In re DRS Cargo Movers Private Limited (GST AAR Telangana)

Introduction: In a recent development, the Authority for Advance Ruling (AAR) in Telangana has granted permission for the withdrawal of an application by DRS Cargo Movers Private Limited. This decision, detailed in the full text of the order, marks a significant update for businesses seeking clarifications in the realm of Goods and Services Tax (GST). The order, issued by the AAR Telangana, addresses the application for Advance Ruling submitted by M/s. DRS Cargo Movers Private Limited of Hyderabad (GSTIN: 36AADCD0069Q2ZA). The applicant, represented by their authorized spokesperson, participated in a personal hearing on 6th September 2023. However, in a subsequent reference (3rd cited), M/s. DRS Cargo Movers Private Limited conveyed their decision to withdraw their application for Advance Ruling. The AAR Telangana, after due consideration, acknowledged and accepted this withdrawal request.

Withdrawal Process: The withdrawal of the application by DRS Cargo Movers Private Limited has been deemed as infructuous. This decision streamlines the process for businesses seeking clarifications on GST-related matters. The ability to withdraw an application provides flexibility and ensures that businesses can adapt their approach based on evolving circumstances.

Conclusion: The AAR Telangana's decision to allow the withdrawal of the application by DRS Cargo Movers Private Limited reflects a responsive and adaptable regulatory framework. Businesses can now navigate the Advance Ruling process with greater ease, knowing that adjustments can be made when necessary. This development underscores the importance of a dynamic regulatory environment that caters to the evolving needs of businesses in the complex landscape of GST. In conclusion, the withdrawal of the application by DRS Cargo Movers Private Limited stands as a noteworthy development in the GST AAR Telangana, showcasing the responsiveness of the authority to the changing dynamics of businesses in the state

(V) JUDGEMENTS

1. Retrospective GST Registration Cancellation invalid if order not specify reasons for such cancellation: Delhi HC

Case Name : Shree Ram Metal Vs Commissioner of Delhi Goods And Services Tax Act & Anr. (Delhi High Court)

Appeal Number : W.P.(C) 16249/2023

Date of Judgement/Order : 18/12/2023

Related Assessment Year :

Courts : All High Courts (12221) Delhi High Court (2934)

Shree Ram Metal Vs Commissioner of Delhi Goods And Services Tax Act & Anr. (Delhi High Court)

Introduction: The Delhi High Court, in the case of Shree Ram Metal vs Commissioner of Delhi Goods And Services Tax Act & Anr., has pronounced a significant ruling emphasizing that GST registration cannot be cancelled retrospectively without proper justification. This article delves into the details of the case, examining the order, the grounds for cancellation, and the court's reasoning.

Detailed Analysis: The petitioner contested an order dated 10.03.2023, which cancelled their GST registration retrospectively from 01.07.2017. Additionally, they challenged the show cause notice dated 15.01.2023, leading to the impugned order. The petitioner's appeal against this order was dismissed due to a purported delay in filing.

The core contention revolved around the cancellation being based on the petitioner's failure to file returns for a continuous six-month period. However, the petitioner contended that returns were filed until 31.03.2022. The impugned order lacked a clear reason for the retrospective cancellation, merely citing the absence of a response to the show cause notice.

The court referred to Section 29(2) of the Central Goods and Services Tax Act, 2017, which grants discretion to cancel GST registration, even retrospectively. However, the court

emphasized that such decisions must be reasoned and not arbitrary. In this case, the absence of any stated reason rendered the retrospective cancellation unjustified.

Consequently, the court set aside the impugned order, directing the cancellation to take effect from the date of the show cause notice, i.e., 15.01.2023. The petitioner was given four weeks to comply with the statutory requirement of filing returns until that date.

Conclusion: The Delhi High Court's ruling in *Shree Ram Metal vs Commissioner of Delhi Goods And Services Tax Act & Anr.* serves as a precedent underscoring the importance of reasoned decisions in GST registration cancellations. The decision clarifies that cancellations, especially retrospective ones, must be supported by valid reasons and cannot be arbitrary. The order provides relief to the petitioner, allowing for the cancellation to take effect prospectively and affording an opportunity to fulfill the filing requirements. Importantly, the court's decision does not shield the petitioner from further proceedings if violations are established under the CGST Act.

2. GST Registration Cannot be Cancelled for Continuous Nil Returns Beyond 6 Months

Case Name : Kali Shankar Enterprises Vs Additional Commissioner (Andhra Pradesh High Court)

Appeal Number : Writ Petition No. 31675 of 2023

Date of Judgement/Order : 18/12/2023

Related Assessment Year :

Courts : All High Courts (12221) Andhra Pradesh HC (192)

In re NBER Developers LLP (GST AAR Odisha)

Introduction: The realm of Goods and Services Tax (GST) in India has seen its fair share of complexities, particularly in the real estate sector. A recent ruling by the GST Authority for Advance Ruling (AAR) in Odisha has brought forth questions about the applicability of GST rates on the sale of land and duplex. In this extensive exploration, we unravel the nuances of this ruling, delving into its implications, understanding the rates involved, and scrutinizing the eligibility for input tax credits.

Detailed Analysis:

- i. Background and Applicant's Submission:** NBER Developers LLP, the applicant in question, sought clarity on the GST rate concerning the sale of land and the construction of a duplex on the same piece of land. The crux of their argument was rooted in the belief that the sale of developed land falls under Schedule III, exempting it from GST implications.
- ii. Memorandum of Agreement and Power of Attorney:** A critical aspect of the ruling lies in dissecting the legal documents submitted by NBER Developers LLP. The AAR scrutinized the Memorandum of Agreement and the Power of Attorney, discovering that the developer was authorized, through the Power of Attorney, for the commercial exploitation of the land, including the construction of multi-storied buildings. The agreements with buyers were meticulously analyzed, revealing charges for land, common areas, and services related to construction.

iii. Applicability of GST: The heart of the matter lay in determining the GST applicability. The AAR concluded that the transaction indeed constituted taxable supplies, citing Schedule II, Para 5 Clause (b) of the CGST Act. As a result, the developer was deemed liable to pay GST at a rate of 7.5% (CGST 3.75% + SGST 3.75%). A noteworthy deduction of one-third towards land cost was permitted, establishing an effective GST rate of 5%. Intriguingly, the ruling asserted that input tax credit was not admissible on inward supplies.

iv. Comparison with Previous AAR Rulings: To deepen our understanding, a comparative analysis was conducted with previous AAR decisions in Haryana, Goa, and Karnataka. These rulings, which generally favored the non-taxability of developed plots, were contrasted against the nuanced perspectives of the AAR Odisha. The divergence in facts and circumstances emerged as a key factor in the Odisha ruling.

Exploring the Distinctions:

Now, let's delve deeper into the distinctive features that set this ruling apart from previous judgments:

- **Land Development at Buyer's Behest:** The Odisha ruling underscored that the development of land was initiated by the developer at the request of the buyer. This crucial distinction positioned the transaction as one not solely limited to the sale of land but encompassing the construction of a duplex or multi-storied building.
- **Intrinsic Part of Plot Allotment:** The agreements with buyers revealed a comprehensive approach to pricing. Charges for land, common areas, internal and external development, taxes, and various other amenities were all bundled into the total price of the plot. This bundling strategy reinforced the idea that the transaction wasn't a straightforward sale of land but an intricate process involving multiple components.

Implications for Stakeholders:

As stakeholders grapple with the repercussions of this ruling, several considerations come to the forefront:

- i. GST Compliances for Developers:** Developers in the real estate sector need to meticulously evaluate their transactions in light of this ruling. The imposition of GST at a specific rate, coupled with the denial of input tax credit, necessitates a thorough understanding of the tax implications on the overall project cost.
- ii. Buyer's Perspective:** From the buyer's standpoint, the inclusion of various charges in the total price might lead to increased costs. Understanding the breakdown of these charges becomes imperative for buyers aiming to make informed decisions in the real estate market.
- iii. Professional Advisory:** The complexities elucidated by this ruling emphasize the importance of seeking professional advice. Tax experts well-versed in GST regulations can guide both developers and buyers through the intricacies of these transactions, ensuring compliance with the latest guidelines.

Conclusion:

In conclusion, the GST AAR Odisha ruling sheds light on the evolving landscape of taxation in real estate transactions. The intricate details of the agreements, the development initiated at the buyer's request, and the bundling of charges all contribute to a nuanced understanding of the transaction at hand. As the real estate sector adapts to these complexities, stakeholders must stay abreast of evolving GST regulations, seeking professional advice to navigate the intricate web of compliance and financial implications.

3. Jammu & Kashmir HC directs Reconsideration of ITC Claim of Malik Traders

Case Name : Malik Traders Vs Union Territory of J & K & Ors. (Jammu & Kashmir and Ladakh High Court)

Appeal Number : WP(C) 3425/2023

Date of Judgement/Order : 29/12/2023

Related Assessment Year :

Courts : All High Courts (12221) Jammu & Kashmir HC (42)

Malik Traders Vs Union Territory of J & K & Ors. (Jammu & Kashmir and Ladakh High Court)

Introduction: Malik Traders have approached the Jammu & Kashmir and Ladakh High Court seeking redressal against the Order dated 08.12.2023. The appellate authority had rejected the petitioner's appeal, contending that the Principal Supplier failed to upload bills during the relevant period. The petitioner, however, claims that the bills were uploaded in GSTR, Form A in B2C, but discrepancies in the portal of the State GST authorities led to the rejection. This article delves into the details of the case and the court's directive for a reconsideration.

Background: The petitioner, dissatisfied with the appellate authority's decision, filed the present petition challenging the rejection of their Input Tax Credit (ITC) claim. The key contention was the failure of the Principal Supplier to upload bills during the period under appeal, as per the GST Act 2017.

Legal Proceedings: Ms. Yasmeen and Ms. Zareen Ali, learned counsel for the petitioner, argued that the bills were indeed uploaded in GSTR, Form A in B2C. However, a discrepancy in the portal of the State GST authorities resulted in the non-reflection of the uploaded bills, leading to the adverse observations by the appellate authority.

Court's Observations: The court, after hearing the arguments, agreed that the matter involves the ascertainment of facts. Rather than exercising jurisdiction under Article 226 of the Constitution of India, the court deemed it more appropriate to direct the appellate authority to re-examine the issue.

Disposition of the Petition: The court disposed of the petition with the following directives:

- The petitioner is directed to approach the Appellate Authority within two weeks.
-
- The Appellate Authority will reconsider the petitioner's claim for availing benefits, including ITC.
-

The Appellate Authority will issue a Speaking Order after providing an opportunity for the petitioner to be heard.

The reconsideration process should be conducted expeditiously.

Conclusion: Malik Traders have secured a directive from the Jammu & Kashmir and Ladakh High Court for the reconsideration of their ITC claim. The court's emphasis on providing an opportunity for the petitioner to present evidence before the Appellate Authority reflects a commitment to fair adjudication in matters involving factual complexities.

4. Amnesty Scheme Benefits Available to GST Appeal rejected on

Limitation: Madras HC

Case Name : Cholaa Tapes Vs Additional Commissioner (Madras High Court)

Appeal Number : W.P. No. 34742 of 2023

Date of Judgement/Order : 15/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Madras High Court (1397)

Cholaa Tapes Vs Additional Commissioner (Madras High Court)

Introduction: This article examines a recent order by the Madras High Court in the case of Cholaa Tapes vs. Additional Commissioner. The petitioner challenges the rejection of their GST appeal on grounds of limitation, seeking a further direction from the court. The Madras HC discusses the availability of benefits under the Amnesty Scheme, even after an appeal is rejected on limitation, offering insights into the case and its implications.

Detailed Analysis: Cholaa Tapes filed a writ petition challenging the dismissal of their GST appeal by the first respondent, citing a delay of 11 days in filing the appeal. The petitioner contends that the order they challenged was not uploaded on the GST portal on the date of its passing but only on 12.09.2022. As a result, the petitioner filed the appeal online on 03.11.2022. However, the first respondent mechanically dismissed the appeal as time-barred. The learned counsel for the petitioner argued that the dismissal overlooked the circumstances of the delayed uploading of the order summary on the GST portal. The petitioner sought a further direction to the first respondent to consider the appeal on merits and in accordance with the law. The senior panel counsel for the respondents highlighted the availability of the Amnesty Scheme from 2.11.2023. Under this scheme, if the appellate authority rejects an appeal on the ground of limitation, aggrieved parties are entitled to avail benefits. The counsel suggested that the petitioner can benefit from this scheme. In response, the petitioner's counsel requested liberty for the petitioner to avail the Amnesty Scheme. The Madras High Court, upon perusal of the Amnesty Scheme, noted that even if an appeal is rejected on the basis of

limitation, assesseees are entitled to avail Amnesty benefits. The court directed the petitioner to utilize the Amnesty Scheme, and the respondent was instructed to consider and pass orders in accordance with the scheme and the law.

Conclusion: The Madras High Court's decision offers a significant precedent by allowing amnesty benefits under the GST scheme even after the rejection of an appeal on the grounds of limitation. This emphasizes the court's recognition of unique circumstances, such as delayed uploading of orders, and aligns with the principle of providing relief to taxpayers under specific schemes. The case sheds light on the flexibility of the Amnesty Scheme and its application in scenarios where appeals face rejection due to procedural aspects like timing.

5. Delhi High Court Quashes GST Registration Cancellation: Violation of Natural Justice

Case Name : Neelkanth Metals Vs Union of India & Anr. (Delhi High Court)

Appeal Number : W.P.(C) 15790/2023 and CM APPL. 63569/2023

Date of Judgement/Order : 21/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Delhi High Court (2939)

Neelkanth Metals Vs Union of India & Anr. (Delhi High Court)

Introduction: The Delhi High Court recently addressed a crucial case involving GST registration cancellation in the matter of Neelkanth Metals Vs Union of India & Anr.

The petitioner sought relief against the impugned Show Cause Notice and Summons issued by the Commissioner of CGST, Delhi West, New Delhi. Detailed Analysis: The court's scrutiny focused on the Show Cause Notice dated 22.05.2023, which proposed the cancellation of GST registration under Section 29(2)(e), citing "registration obtained by means of fraud, wilful misstatement, or suppression of facts." The petitioner contested the lack of specificity in the notice, asserting a violation of the principles of natural justice. The court concurred, highlighting that a meaningful response was unattainable due to the absence of specific allegations in the impugned SCN. Emphasizing settled law, the judgment declared the SCN void and directed the revocation of the suspension of the petitioner's GST registration.

Conclusion: The Delhi High Court's directive sets a precedent, emphasizing the importance of clear and specific Show Cause Notices in matters of GST registration cancellation. Upholding the principles of natural justice, the court ruled in favor of the petitioner, mandating a proper notice with specific allegations before any adverse action. This judgment establishes a framework for fair proceedings in GST cases, ensuring transparency and due process.

6. CCI Orders Re-Investigation into “Diya Greencity” Project Amidst Profiteering Allegations

Case Name : In re Smt. Sudha Vs Diya Greencity Pvt. Ltd. (NAA)

Appeal Number : Case No. 16/2023

Date of Judgement/Order : 29/12/2023

Related Assessment Year :

Courts : Competition Commission of India (164) National Anti-Profiteering Authority (395)

In re Smt. Sudha Vs Diya Greencity Pvt. Ltd. (NAA)

Introduction: The Competition Commission of India (CCI) has directed a fresh investigation into the “Diya Greencity” project of Diya Greencity Pvt. Ltd. following a detailed report received from the Director-General of Anti-Profiteering (DGAP). The investigation stems from a complaint filed under Rule 128 of the Central Goods & Service Tax (CGST) Rules, 2017, by an aggrieved homebuyer, alleging non-passage of Input Tax Credit (ITC) benefits post the introduction of GST in 2017.

Background: The complainant, Smt. Sudha, had asserted that Diya Greencity Pvt. Ltd. failed to reduce flat prices in the “Diya Greencity” project, located at Raj Nagar Extension, Meerut Road, Ghaziabad, in proportion to the benefit of ITC accrued after the implementation of GST on July 1, 2017.

DGAP Investigation Findings: The DGAP’s report, dated April 20, 2023, outlined key points from its investigation:

1. The investigation period covered July 1, 2017, to October 31, 2022.
2. Diya Greencity Pvt. Ltd. had applied for the Completion Certificate for “Diya Greencity,” but it was rejected for non-compliance with formalities.
3. The Respondent claimed to have passed on the ITC benefit to 650 customers upon possession of flats, amounting to Rs. 3,81,70,416.

4. The DGAP found that post-GST, the Respondent benefitted from additional ITC of 5.43% of turnover, totaling Rs. 12,65,48,780.
5. The Respondent was alleged to have not fully passed on the benefit, as confirmed by only 102 out of 650 customers in the verification process.
6. A total of Rs. 42,11,007 in ITC benefit was confirmed as passed on by the Respondent to 64 customers.
7. The DGAP concluded that the Respondent contravened Section 171 of the CGST Act by not passing on the ITC benefit.

Response from Diya Greencity Pvt. Ltd.:

In response to the investigation report, Diya Greencity Pvt. Ltd. presented several arguments:

1. Illegality of Profiteering Methodology:

- The Respondent contended that the methodology adopted by DGAP was
- unconstitutional and inconsistent with Section 171(3) and Rule 126 of the CGST Rules 2017.
- Diya Greencity Pvt. Ltd. argued that the absence of a prescribed methodology for profiteering calculation rendered the entire process invalid.

The Respondent cited cases challenging the constitutionality of anti-profiteering provisions pending in the Delhi High Court.

2. Applicability to Post-GST Bookings:

- Diya Greencity Pvt. Ltd. asserted that anti-profiteering provisions should not apply
 - to customers who booked flats post-GST, claiming mutual agreement on prices.
- The Respondent referred to a Delhi High Court case involving M/s DRA Aadithya Projects Pvt. Ltd. as precedent for an interim stay on anti-profiteering investigations for post-GST period bookings.

3. Settlement with Smt. Sudha:

- Diya Greencity Pvt. Ltd. informed about a settlement with Smt. Sudha, who
 - withdrew the complaint in exchange for a consideration price of Rs. 27,50,000.
- The Respondent argued that this settlement rendered the DGAP's observation on passing on the ITC benefit to Smt. Sudha null and void.

4. Revision of Profiteering Amount:

- Diya Greencity Pvt. Ltd. challenged the DGAP's calculation of profiteering amount,
 - questioning the use of GST rates at 12% instead of the effective rates.
- The Respondent argued for a reduction in the profiteering amount due to the cancellation of flats and questioned the legality of adding GST to the profiteered amount.

Verification Process Accuracy:

- The Respondent disputed the accuracy of the DGAP's verification process, claiming that ITC benefits had indeed been passed on to 38 customers.

Penalty under Section 171(3):

- Diya Greencity Pvt. Ltd. requested that no penalty be imposed under Section 171(3) of the CGST Act, stating compliance with Section 171.

CCI's Decision and Re-Investigation Order: After considering the DGAP's report, the Respondent's submissions, and subsequent clarifications, the CCI found merit in some of the Respondent's contentions. Consequently, the CCI has directed a re-investigation on specific issues:

- Verification of the settlement with Smt. Sudha and the impact on the complaint
- withdrawal.
- Assessment of whether certain flats fell under the Affordable Housing Scheme and
- if GST was to be charged at 8%.

Examination of the impact of flat cancellations on the profiteering calculation.

Re-evaluation of the verification process for passing on ITC benefits.

Conclusion: The CCI's decision to order a re-investigation reflects its commitment to a thorough examination of allegations and fairness in competition. The re-investigation will shed light on critical aspects such as settlements, applicable GST rates, and accurate verification processes. This case highlights the complexities and challenges in enforcing anti-profiteering measures and emphasizes the need for transparency and adherence to legal procedures. The real estate industry, as well as consumers and stakeholders, await the outcome of the reinvestigation, which will shape the narrative of compliance and accountability in the sector.

7. CCI Orders Re-Investigation of ‘Omkar 1973 Worli’ & ‘The Summit Business Bay’

Case Name : Director General of Anti-Profiteering Vs Omkar Realtors and Developers Pvt. Ltd. (Competition Commission of India)
Appeal Number : I.O. No. 15/2023
Date of Judgement/Order : 29/12/2023
Related Assessment Year :
Courts : Competition Commission of India (164) National Anti-Profiteering Authority (395)

Director General of Anti-Profiteering Vs Omkar Realtors and Developers Pvt. Ltd. (Competition Commission of India)

Introduction: The wheels of justice turn with meticulous precision, often requiring revisits and re-examinations to ensure fairness. In a recent development, the Competition Commission of India (CCI) has directed the Director General of Anti-Profiteering (DGAP) to conduct a re-investigation into two significant real estate projects, ‘Omkar 1973 Worli’ and ‘The Summit Business Bay.’ The report, dated 15.02.2023, provides the initial findings and directives issued by the National Anti-Profiteering Authority (NAA).

Detailed Analysis:

1. Background: The genesis of this investigation lies in the directives of the NAA, particularly Order No. 51/2022 issued on 29.07.2022. This order instructed the DGAP to scrutinize ‘Crescent Bay,’ a project situated at Parel, Mumbai, developed by Omkar Realtors and Developers Pvt. Ltd. (Respondent No. 1) and M/s L&T Parel Project LLP. However, the scope expanded to encompass two additional projects, ‘Omkar 1973 Worli’ and ‘The Summit Business Bay.’ The report, received on 15.02.2023, unveils the initial findings, shedding light on the intricacies of the investigation.

2. Projects Overview:

- ‘Omkar 1973 Worli’: This project, designed with a focus on slum rehabilitation, comprised three towers housing a total of 483 units. The primary objective was to provide permanent housing for slum dwellers, with additional units allocated for sale.
- ‘The Summit Business Bay Andheri’: A project with 342 units, strategically planned to house slum dwellers permanently. The project received the Occupancy Certificate.

Both projects, ‘Omkar 1973 Worli’ and ‘The Summit Business Bay,’ became subjects of an Interim Order (02/2023) dated 31.07.2023, directing further investigation into specific aspects of these projects.

3. DGAP’s Findings: The DGAP’s report, dated 15.02.2023, delves into the details of both projects:

- ‘Omkar 1973 Worli’: Identified an additional Input Tax Credit (ITC) benefit of Rs. 9,52,76,540/related to 40 flats. Pertinent issues were raised concerning the flats belonging to landowners.
- ‘The Summit Business Bay’: Recognized an additional ITC benefit of Rs. 3,04,60,309/-, associated with 86 flats. The DGAP questioned claims made by Respondent No. 1.

4. Respondent’s Counterarguments: The Respondent No. 1, in response to the DGAP’s findings, presented counterarguments highlighting discrepancies and contesting the methodology employed in the investigation:

- Discrepancies in Saleable Area Calculations: The Respondent contended that there were inaccuracies in the saleable area calculations presented in the DGAP’s report.

Incremental ITC and Tax Rate Changes: The Respondent disagreed with the DGAP on the incremental ITC, citing changes in tax rates. The argument centered on the perceived nullification of incremental credit due to increased tax rates.

- Methodology Disputes: The Respondent raised concerns about the methodology employed by the DGAP, asserting that it lacked a proper

correlation between turnover and ITC. Issues related to the phased execution of construction work and comparisons between pre-GST and post-GST regimes were also contested.

- Recalibration of Base Price and GST Inclusion: Disputes arose over the recalibration of the base price and the inclusion of GST in the calculations. The Respondent argued that this approach was flawed.
- Passing on Benefits and Section 171 Contravention: The Respondent maintained that they had passed on the benefits and argued that there was no contravention of Section 171 of the Central Goods and Services Tax Act, 2017.

Conclusion: Upon careful consideration of the DGAP's report and the counterarguments presented by Respondent No. 1, the CCI found notable discrepancies and directed a re-investigation. Several key concerns emerged, including inaccuracies in saleable area calculations, uncomputed profiteering related to landowners' flats, and incomplete documentation provided by the Respondent No. 1.

1. Saleable Area Discrepancies: A significant discrepancy surfaced regarding the saleable area calculations. The Respondent contended that the total saleable area for 'Omkar 1973 Worli' was 21,02,641 Sq. Ft., and for 'The Summit Business Bay' was 5,37,474 Sq. Ft. However, the DGAP's report, specifically in Table A and Table B at S.No. 6, indicated total saleable areas of 9,26,567 Sq. Ft. and 2,14,224 Sq. Ft. for the respective projects. The divergence in these figures necessitates further investigation.

2. Profiteering on Landowners' Flats: In the case of 'Omkar 1973 Worli,' the DGAP noted that landowners, including M/s Kash Foods Pvt. Ltd., Nakul Ravi Arya, and Varun Ravi Arya (Respondent No. 2, 3 & 4, respectively), were entitled to sell flats. The DGAP recommended passing on the ITC benefit to these landowners, who would then transfer it to homebuyers. However, the DGAP did not compute any profiteered amount concerning these flats. The DGAP had sent a letter to the jurisdictional Commissioner to verify assertions by the landowners and inquire into

the tax liability associated with the sale of these flats. This aspect requires further scrutiny in the re-investigation.

3. Bifurcation of CENVAT/ITC Figures: The DGAP, in his report, highlighted that the Respondent No. 1 had not provided project-wise figures of Input Tax Credit (ITC) of VAT availed concerning 'Omkar 1973 Worli' and 'The Summit Business Bay.' The Respondent No. 1, in an email dated 14.12.2022, submitted figures certified by a Chartered Accountant, but these figures were for the consolidated period of April 2016 to June 2017. However, the DGAP required project-wise bifurcation. The absence of these figures raises concerns about the accuracy and transparency of the ITC computations.

4. Incomplete Documentation: The Respondent No. 1 was directed to furnish additional documents on various occasions, including the Director's Report and audited annual reports for 'Omkar 1973 Worli' and 'The Summit Business Bay.' While some documents were provided, there were instances of incomplete submission and non-compliance. The re-investigation should focus on obtaining comprehensive documentation to ensure a thorough examination of the financial aspects.

The CCI, in its order, instructs the DGAP to conduct a comprehensive re-investigation, specifically addressing these concerns. Additionally, Respondent No. 1 is directed to promptly supply all necessary information and cooperate fully in the process.

The Way Forward:

The re-investigation marks a crucial phase in this antitrust scrutiny. The DGAP, armed with the CCI's directives, will delve deeper into the financial intricacies of 'Omkar 1973 Worli' and 'The Summit Business Bay.' The following steps are anticipated:

1. Exhaustive Documentation Review: The DGAP is expected to meticulously review all relevant documents, including but not limited to financial reports, auditor statements, and project-wise bifurcation of Input Tax Credit (ITC).

2. **Detailed Saleable Area Calculation:** A detailed and accurate calculation of the saleable area for both projects will be crucial to ensuring transparency and addressing the discrepancies raised by Respondent No. 1.
3. **Profiteering on Landowners' Flats:** The re-investigation is likely to delve into the profiteering aspect related to landowners' flats in 'Omkar 1973 Worli.' This includes verifying the assertions made by the landowners and determining the appropriate course of action concerning the ITC benefit.
4. **Bifurcation of CENVAT/ITC Figures:** The DGAP will likely insist on a clear project-wise bifurcation of Input Tax Credit figures, ensuring a more granular examination of the tax benefits claimed.
5. **Cooperation from Respondent No. 1:** The success of the re-investigation relies on the full cooperation of Respondent No. 1. Timely submission of all required documents and transparent communication will be pivotal in facilitating a thorough and efficient examination.
- 6.. **Final Report Submission:** The DGAP, upon completing the re-investigation, will submit a final report to the CCI. This report will encapsulate the findings, addressing the concerns raised in the CCI's order and providing a comprehensive analysis of the projects under scrutiny.

Conclusion: In conclusion, the Competition Commission of India's decision to order a re-investigation into 'Omkar 1973 Worli' and 'The Summit Business Bay' signifies a commitment to fair competition and consumer protection. The complexities surrounding tax benefits, saleable area calculations, and profiteering necessitate a thorough examination. The re-investigation process is poised to shed light on these intricacies, ensuring that justice is not only served but is seen to be served. As the DGAP embarks on this journey, the real estate industry and stakeholders await the final report that will shape the narrative of these projects and contribute to the broader discourse on antitrust measures in the Indian real estate sector.

8. HC Quashes Order: AO Mistakenly Treated Imported Bone Meal as Timber

Case Name : Jose Bone Products Vs Assistant Commissioner (ST) (Madras High Court)

Appeal Number : W.P. No. 31228 of 2022

Date of Judgement/Order : 06/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Madras High Court (1397)

Jose Bone Products Vs Assistant Commissioner (ST) (Madras High Court)

Introduction: The recent judgment by the Madras High Court in the case of Jose Bone Products vs. Assistant Commissioner (ST) sheds light on a significant dispute related to the Goods and Services Tax (GST). The petitioner, engaged in the business of supplying bone meal, challenged an order issued by the 1st respondent, demanding GST on imported goods. The crux of the matter lies in the misconception that the bone meal was wrongly considered as imported timber.

Detailed Analysis: The petitioner contended that they never imported any materials and solely operated in the bone meal business. The 1st respondent issued a notice, seeking details of allegedly imported goods, and subsequently passed an order on 13.10.2021 without affording the petitioner an opportunity for a personal hearing. Another notice dated 12.07.2022 demanded tax for the value of the purportedly imported goods. The petitioner argued that the 1st respondent misunderstood their business, wrongly assuming timber importation. Despite the notice, the petitioner's claim of exemption from VAT duty for bone meal was overlooked. The Madras High Court noted a violation of natural justice as the order was passed without a personal hearing, contrary to Section 75(4) of the Goods and Services Tax Act, 2017. The court, recognizing the misconception in the impugned order, emphasized that any order should follow a personal hearing. In light of the erroneous assumption about timber importation, the court set aside the order dated 13.10.2021. The attached notice issued based on this order was lifted.

Conclusion: The Madras High Court's decision serves as a reminder of the importance of adherence to principles of natural justice in tax matters. The case highlights the need for accurate understanding of business operations before passing tax orders. The court directed the 1st respondent to grant the petitioner an opportunity to file a reply and to pass appropriate orders after providing a personal hearing within three months from the date of the order. This judgment underscores the significance of fairness and due process in GST proceedings.

9. GST registration cancellation should be retrospective only from the date no business is conducted

Case Name : Varyam Dass Khurana Vs. Commissioner of GST (Delhi High Court)

Appeal Number : W.P.(C) 15670/2023

Date of Judgement/Order : 05/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Delhi High Court (2939)

Varyam Dass Khurana Vs. Commissioner of GST (Delhi High Court)

The Hon'ble Delhi High Court in Varyam Dass Khurana vs. Commissioner of GST, New Delhi [W.P.(C) NO. 15670 OF 2023 dated December 05, 2023], directed that, the registration has to be cancelled retrospectively from the date when no business is being conducted by the Registered Person. This article provides an in-depth analysis of the court's decision and its implications on retrospective cancellations. Facts: Varyam Dass Khurana was a registered person under GST who is engaged in the business of supplying building materials and other related materials, operating under the business name and style of Ram Builders, having its principal place of business in Delhi. However, Varyam Dass Khurana died and one of the sons namely Shri Sanjay Khurana took charge of the business and applied for cancellation of GST Registration in favour of Varyam Dass Khurana. However, the Revenue Department ("the Respondent") issued notice seeking further information pertaining to the application filed. The Respondent vide order dated May 29, 2020 ("the Impugned Order"), pursuant to the Show Cause Notice dated May 18, 2020 ("the SCN") cancelled the GST Registration retrospectively.

Aggrieved by the Impugned Order, Shri Sandeep Khurana ("the Petitioner") being one of the legal heirs filed a writ petition before the Hon'ble Delhi High Court. Held: The Hon'ble Delhi High Court in W.P.(C) NO. 15670 OF 2023 directed the Respondent that the Impugned Order shall take effect from the date of issuance of SCN as no business was being conducted thereafter, after taking into consideration the fact that the Impugned Order is devoid of any reasoning.

Conclusion: The Delhi High Court's ruling in the Varyam Dass Khurana case clarifies that GST registration cancellation should be retrospective only from the date when

no business is conducted. The lack of reasons in the cancellation order led to the court directing a specific effective date. This judgment provides guidance on the appropriate retrospective application of GST registration cancellations, offering relief to businesses and heirs facing such issues. Businesses should be aware of the implications highlighted in this case, ensuring compliance with the specified effective date in cancellations.

10.HC directs conditional Release of confiscated Areca Nut

Case Name : Quadri and Company Vs Commercial Tax Officer (Karnataka High Court)

Appeal Number : Writ Appeal No. 100629 of 2023 (T-RES)

Date of Judgement/Order : 19/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Karnataka High Court (595)

Quadri and Company Vs Commercial Tax Officer (Karnataka High Court)

Conclusion: Department was directed to release the confiscated Areca Nut on condition specified as it were confiscated due to non-submission of E waybill. The bench modified the conditions imposed by the Single Judge.

Held: Assessee-company filed a petition for setting aside the interim orders passed in the writ petitions which the order was purportedly passed relying upon the re-appreciation of transaction value by the Assistant Commissioner of Taxes [Enforcement]. Assessee had also sought a direction from the Commissioner of commercial taxes to pass fresh orders as to the legality and validity of restatement and reappraisal of the transaction value. Assessee had also sought direction for the release of the consignment and conveyance on payment of (i) 20% of deposit of penalty imposed; (ii) secure balance of consignment value as per tax invoice by a bank guarantee leaving the question of validity restatement and reappraisal of transaction value to be agitated in statutory appeal. The main grievance of assessee was that the condition imposed for release of goods by the learned Single Judge was onerous and ought to be modified. Assessee had raised an invoice on the consignee for the supply of areca nuts and had handed over the goods to the transporter, who had hired conveyance to transport the goods. The said conveyance was intercepted by the Assistant Commissioner of Commercial Taxes (Enforcement). Physical verification was conducted and an impugned order of detention under section 129 came to be passed detaining the conveyance and the goods. The report of the value by CAMPCO was to the effect that goods were undervalued. Without the proceedings under section 129 having concluded, it was asserted that a confiscation notice came to be issued followed by a confiscation

order. Assessee further has contended that the proceedings under section 129 of the Act having been initiated could not have been abandoned midway and proceedings for confiscation under section 130 of the Act be proceeded with. It was held that the concern of the State that the valuation of assessee being defective and actual valuation being much higher could not be ignored though the aspect of valuation was also a matter for adjudication. However, it would be appropriate to put assessee on terms by ensuring that the valuation of the goods as determined by the revenue was realizable if the validity of the proceedings under section 130 of the Act were upheld. Assessee were to make good the 25% deposit provided for in appeal proceedings as regards the order impugned in the writ proceedings. It was made clear that the deposit- made in the earlier appeals by assessee could be adjusted. Assessee were to make good tax and penalty as per the orders impugned before Single Judge by securing the same by way of bank guarantee. Assessee were to furnish a bank guarantee insofar as the value of goods as per his invoice. Assessee were to furnish a personal bond of the Proprietor representing assessee to the extent of the differential value of the goods as per the invoice of assessee vis-a-vis the valuation by CAMPCO made on behalf of the State.

11. ITC Rejection due to Supplier's GSTR-1 Delay: Kerala HC Remands matter to AO

Case Name : Unity Ooh Media Solutions Pvt. Ltd. Vs Deputy State Tax Officer (Kerala High Court)

Appeal Number : WP(C) NO. 42429 OF 2023

Date of Judgement/Order : 21/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Kerala High Court (728)

Unity Ooh Media Solutions Pvt. Ltd. Vs Deputy State Tax Officer (Kerala High Court)

Introduction: The Kerala High Court recently addressed a crucial case involving the rejection of Input Tax Credit (ITC) due to a supplier's failure to file GSTR-1 on time.

In the matter of Unity Ooh Media Solutions Pvt. Ltd. vs. Deputy State Tax Officer, the court remanded the case to the assessing authority, challenging the assessment order (Ext.P2). Background: Unity Ooh Media Solutions Pvt. Ltd., an assessee under the GST/CGST Act, filed GSTR-1 and GSTR-3B returns for the period July 2017 to March 2018. The company claimed input tax credit for the tax period on goods purchased from registered dealers. However, the 1st respondent issued notices due to the petitioner's failure to respond to show cause notices. The assessment order (Ext.P2) denied a portion of the claimed input tax credit, citing the non-filing of GSTR-1 by certain suppliers before the due date. Detailed Analysis: The primary contention of the petitioner, as argued by their counsel, is that they were denied the opportunity to represent their case before the 1st respondent. The petitioner faced initial difficulties in navigating the GST portal, preventing them from filing replies and participating in the assessment process. The denial of input tax credit in Ext.P2 was solely based on the suppliers' non-compliance with GSTR-1 filing deadlines.

The learned counsel for the petitioner referred to a relevant judgment (WP(C) No. 30660 of 2023) and emphasized the petitioner's right to a fair hearing. The judgment in Diya Agencies v. The State Tax Officer highlighted that denial of input tax credit merely on the grounds of GSTR-2A non-reflection is unsustainable. The court, in that case, directed the assessing officer to provide an opportunity for the

assessee to substantiate their claim with evidence. In light of this precedent, the Kerala High Court, acknowledging the difficulties faced by the petitioner in the new GST regime, remanded the matter back to the assessing authority. The court directed the assessing authority to consider the issue afresh, allowing the petitioner an opportunity to present evidence supporting their claim for input tax credit.

Conclusion: The Kerala High Court's decision to remand the case underscores the importance of a fair hearing and the need for assessing authorities to consider the challenges faced by taxpayers. The judgment sets a precedent for cases where denial of input tax credit is solely based on procedural issues, emphasizing the right of taxpayers to present evidence and be heard in a tax assessment process. This legal development serves as a reminder of the evolving landscape of GST-related disputes and the courts' role in ensuring procedural fairness.

12.Madras HC Revives GST Registration: Non-Payment of Tax

Case Name : SMT Ready Mix Concrete Vs Additional Commissioner (Madras High Court)

Appeal Number : W.P. No. 28249 of 2023

Date of Judgement/Order : 08/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Madras High Court (1397)

SMT Ready Mix Concrete Vs Additional Commissioner (Madras High Court)

Introduction: The Madras High Court recently issued a significant directive reviving GST registration in a case challenging the cancellation due to non-payment of taxes. This article delves into the legal proceedings, arguments presented by both parties, and the court's decision. Detailed Analysis: The writ petition, filed against the proceedings of the 1st respondent, highlights the petitioner's plea for the restoration of GST registration. Mr. A. P. Srinivas, representing the respondent, acknowledged the matter's gravity, leading to the prompt consideration of the petition. The petitioner's counsel referenced a precedent (W.P.No.25048 of 2021) where a similar issue was addressed and resolved in favor of the petitioner. The respondent's counsel urged the court to consider the specific circumstances of the case before making a decision.

The court, having heard both parties, examined the earlier judgment (W.P.No.25048 of 2021) and its implications. The judgment emphasized the extension of limitation periods and the need to facilitate the return of businesses to the GST regime. The court reiterated that interpreting GST laws to debar or de-recognize assesses contradicts constitutional principles. It emphasized the government's intention to facilitate, not impede, the revival of canceled registrations. The court further pointed out that excluding businesses from the GST regime would lead to revenue leakage, defeating the purpose of GST. It stressed the importance of integrating businesses back into the mainstream while maintaining safeguards to prevent abuse.

Quoting relevant notifications and clarifications, the court highlighted the government's commitment to supporting businesses during challenging times and ensuring the uninterrupted flow of revenue.

Conclusion: In line with the precedent and considering the constitutional and statutory aspects, the Madras High Court allowed the writ petition. The court set aside the proceedings of 09.2023 and directed the 1st respondent to restore the petitioner's GST registration. The decision underscores the importance of facilitating businesses' return to the GST fold, balancing economic interests and legal compliance. This case serves as a precedent for similar situations, emphasizing the need to uphold the spirit of GST laws.

13.Appellate Authority cannot dismiss appeal for non-prosecution due to non-appearance of Assessee or authorised representative

Case Name : Nav Nirman Construction Vs Union of India (Patna High Court)

Appeal Number : Civil Writ Jurisdiction Case No.16940 of 2023

Date of Judgement/Order : 06/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Patna High Court (119)

Nav Nirman Construction Vs Union of India (Patna High Court)

The Hon'ble Patna High Court in the case of *Nav Nirman Construction v. Union of India [CWJC No. 16940 of 2023 dated December 6, 2023]* set aside the appellate order and directed that the Appeal be restored before the appellate authority, thereby holding that appellate authority is not empowered to dismiss the appeal for nonprosecution due to non-appearance of Assessee or authorised representative as appellate authority has a duty and obligation to take into consideration the merits of the matter, examine the grounds raised by the appellant even if the appellant or authorised representative presence is not recorded; and decide the issue on merits.

Facts:

Nav Nirman Construction (**"the Petitioner"**) has filed the writ petition challenging the appellate order dated January 28, 2023, (**"the Impugned Order"**) wherein the appeal was dismissed by the Revenue Department (**"the Respondent"**) on the ground of non-prosecution wherein the Petitioner or Petitioner authorised representative was absent during the appellate proceedings.

Issue:

Whether Appellate Authority is empowered to dismiss the appeal for non-prosecution due to non-appearance of Assessee or authorised representative?

Held:

The Hon'ble Patna High Court in the case of *CWJC No. 16940 of 2023* held as under:

- Relying upon the judgement of Hon'ble Patna High Court in the case of *Purushottam Stores v. State of Bihar and Ors.* [CWJC No. 4349 of 2023 dated April 25, 2023], noted that, the sub-sections (8), (9), (10), (11), and (12) of the [Central Goods and Services Act, 2017](#) ("the CGST Act") and corresponding provisions of the Bihar GST Act, the appellate authority has a duty and obligation to take into consideration the merits of the matter, examine the grounds raised by the Appellant even if the Appellant or authorised representative presence is not recorded; and decide the issue on merits.
- Further Noted that, the appellate authority the powers of conducting further enquiry for deciding the appeal would be relinquished, as and when the appeal is dismissed for non-prosecution.

Held that, the Impugned Order is set aside.

- Directed that, the appeal be restored before the Respondent appellate authority.
- Further Directed that, the Petitioner shall cooperate in the hearing of the appeal and even if there is absence of the appellant or his authorized representative on the date of hearing, the Respondent appellate authority shall consider the appeal on merits and pass a speaking order.

Conclusion: The Patna High Court's ruling in *Nav Nirman Construction vs. Union of India* reinforces the principle that the Appellate Authority cannot dismiss an appeal for non-prosecution solely based on the nonappearance of the assessee or their authorized representative. The judgment underscores the Appellate Authority's duty to delve into the merits of the matter and make decisions based on the grounds raised by the appellant, ensuring a fair and just process.

14.AO Lacks Jurisdiction for TNVAT Act Penalty Without Definite Finding:

Madras HC

Case Name : Supreme Trading House Vs Assistant Commissioner (ST) (Madras High Court)

Appeal Number : W.P.Nos. 16607,16614 and 16616 of 2023

Date of Judgement/Order : 08/12/2023

Related Assessment Year : 2010-11

Courts : All High Courts (12236) Madras High Court (1397)

Supreme Trading House Vs Assistant Commissioner (ST) (Madras High Court)

Introduction: The Madras High Court recently addressed the issue of penalty imposition under the Tamil Nadu Value Added Tax (TNVAT) Act in the case of Supreme Trading House vs. Assistant Commissioner. The court's ruling emphasized the necessity of a definite finding on wilful non-disclosure of taxable turnover in the assessment order before the Assessing Officer (AO) can exercise jurisdiction to impose penalties under Section 27 (3) of the TNVAT Act.

Detailed Analysis: The writ petitions challenged the penalty proceedings initiated by the 1st Respondent in TIN Nos. 33262463506/2010-2011 to 33262463506/2014-2015. The petitioner argued that the AO, through orders dated 15.03.2023, levied penalties under Section 27 (3) of the TNVAT Act improperly. According to the petitioner, such penalties should be part of the assessment order passed under Section 27 (1)(a) of the TNVAT Act and cannot be imposed through a separate order. The court considered the petitioner's submissions, citing a Division Bench judgment in The Deputy Commissioner (C. T.) Coimbatore vs. V.S.R. Ramaswami Chettiar and Bros. (1976) 38 STC 382. The judgment held that penalties under Section 16(2) of the Tamil Nadu General Sales Tax Act could not be initiated independently but should be included in the assessment order itself. Drawing parallels between Section 27 (3) of the TNVAT Act and Section 16(2) of the TNGST Act, the court ruled that the AO lacks jurisdiction to independently initiate penalty proceedings without a definite finding on wilful non-disclosure in the assessment order.

Conclusion: The Madras High Court, considering precedent and statutory provisions, quashed the penalty proceedings initiated by the 1st Respondent in the writ petitions. The court emphasized the need for a definite finding on wilful non-disclosure of taxable turnover in the assessment order before penalties under Section 27 (3) of the TNVAT Act can be imposed. This ruling reiterates the importance of adhering to procedural requirements in tax assessments.

15. Delhi HC Directs Electronic Issuance of CGST Notice Summary

Case Name : Sulender Shah Vs Additional Commissioner/Joint Commissioner CGST (Delhi High Court)

Appeal Number : W.P.(C) No. 15766 of 2023

Date of Judgement/Order : 07/12/2023

Related Assessment Year :

Courts : All High Courts (12236) Delhi High Court (2939)

Sulender Shah Vs Additional Commissioner/Joint Commissioner CGST (Delhi High Court)

Summary of Demand and Notice issued u/s 74 of the CGST Act is required to be issued electronically under Rule 142(1) of the CGST Rules

Introduction: In a recent ruling, the Hon'ble Delhi High Court addressed the necessity of issuing the summary of Show Cause Notices and Demands under Section 74 of the CGST Act electronically. The case of *Sulender Shah v. Additional Commissioner/Joint Commissioner CGST [W.P.(C) NO. 15766 OF 2023 dated December 7, 2023]* sheds light on the court's stance regarding compliance with Rule 142(1) of the CGST Rules.

Hon'ble Delhi High Court directed the Revenue Department to issue the summary of Show Cause Notice and Demand electronically in Form GST DRC-01 & Form GST DRC-02, thereby holding that, summary of Demand and Notice issued under Section 74 of the [Central Goods and Services Tax Act, 2017](#) ("the CGST Act") is required to be issued electronically under Rule 142(1) of the [Central Goods and Services Tax Rules, 2017](#) ("the CGST Rules") **Facts:**

Sulender Shah ("the Petitioner") has filed the writ petition for setting aside the Show Cause Notice dated August 2, 2023 ("the Impugned Notice") and restraining the Revenue Department ("the Respondent") from proceeding with the adjudication proceedings of the Impugned Notice during the pendency of writ petition. The Petitioner contended that, the issue in the present writ petition has already been covered in the decision of the Hon'ble Delhi High Court in the case of *Shubham Gupta v. Additional Commissioner/Joint Commissioner CGST, and Anr. [W.P.(C) No. 12457/2023 dated September 21, 2023]* as

the same Show Cause Notice issued to the Petitioner was considered in the aforementioned case.

Issue:

Whether summary of Demand and Notice issued under Section 74 of the CGST Act is required to be issued electronically under Rule 142(1) of the CGST Rules?

Held:

The Hon'ble Delhi High Court in ***W.P.(C) NO. 15766 OF 2023*** held as under:

- Relied upon the order passed by the Hon'ble Delhi High Court in the case of ***Shubham Gupta v. Additional Commissioner/Joint Commissioner CGST, and Anr. [W.P.(C) No. 12457/2023 dated September 21, 2023]*** wherein it was observed that, as per Rule 142(1) of the CGST Rules, any notice issued under Section 74 of the CGST Act, is to be accompanied by the summary, generated electronically in Form GST DRC-01 and Form GST DRC-02. It was further observed that, though the summary in the electronic form is required to be furnished along with the Show Cause Notice, the furnishing of the summary at the present stage during the pendency of adjudication proceedings would be of sufficient compliance.
- Directed that, the proper officer is required to issue the summary of the Impugned Notice and demand electronically in Form GST DRC-01 & Form GST DRC-02 as expeditiously as possible and preferably within a period of one week

Conclusion: The Delhi High Court's directive in Sulender Shah's case underscores the importance of electronic compliance with Rule 142(1) of the CGST Rules. Taxpayers and authorities alike should take note of the court's stance on substantial compliance and ensure adherence to electronic issuance requirements for a smoother adjudication process. This ruling serves as a guide for similar cases and highlights the evolving landscape of tax regulations and procedural compliance.

Relevant Provisions:

Rule 142(1) of the CGST Rules

“142. Notice and order for demand of amounts payable under the Act.-

(1) The proper officer shall serve, along with the

(a) notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01,

statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.....”

16.Lack of opportunities: HC allows filing of Statutory GST Appeal

Case Name : Tvl.T.T.Textiles Vs Assistant Commissioner (ST) (Madras High Court)
Appeal Number : W.P. Nos. 35050, 35060 & 35065 of 2023
Date of Judgement/Order : 18/12/2023
Related Assessment Year :
Courts : All High Courts (12236) Madras High Court (1397)

Tvl. T. T. Textiles Vs Assistant Commissioner (ST) (Madras High Court)

Introduction: In a recent development, the Madras High Court addressed a series of writ petitions challenging tax assessment orders and final notices issued against T.T. Textiles. The petitions, filed under W.P.Nos.35050, 35052, 35056, 35060, and 35065 of 2023, contested the legality of the impugned orders dated 14.06.2023, and the final notices dated 14.09.2023.

Background: The primary contention raised by T.T. Textiles, as argued by its counsel, T.N.C. Kaushik, was the lack of opportunities provided by the respondents for filing replies or attending personal hearings before the assessment order was passed. The petitioner claimed to have only become aware of the assessment order on 14.09.2023 when served with the final notice.

Legal Proceedings: The Additional Government Pleader, representing the respondents, took notice on behalf of the government. Both parties consented to the court disposing of the main writ petitions at the admission stage itself.

Petitioner's Argument: The petitioner argued that the statutory appeal deadline had lapsed due to the failure of the respondents to provide notice or an opportunity for a personal hearing. The petitioner sought relief from the court against the impugned order and final notice.

Court's Consideration: After hearing the arguments from both sides and reviewing the available materials on record, the court observed the lack of notice and personal hearing provided to the petitioner before the assessment order was passed.

Court's Decision: Considering the circumstances, the court granted the petitioner the liberty to file a statutory appeal before the Appellate Authority within 30 days from the receipt of the court's order. The court directed the Appellate Authority to consider the appeal without insisting on the issue of limitation.

Interim Relief: The court issued an interim stay on recovery proceedings until the filing of the appeal. Additionally, the attachment order on the petitioner's bank accounts was temporarily lifted, allowing the petitioner to operate the accounts, subject to providing details of deposits, withdrawals, and the utilization of withdrawn funds.

Conditions and Conclusion: The court clarified that the interim reliefs would automatically stand vacated if the petitioner failed to file the appeal within the specified 30-day period.

In **conclusion**, the Madras High Court's decision in T.T. Textiles Vs. Assistant Commissioner sets a precedent for cases where taxpayers argue against procedural lapses in tax assessments, providing an avenue for appeal and temporary relief from enforcement actions.

17.Madras HC Stays GST Recovery: Failure to Attend Hearing on Late Notice

Case Name : Johnson Bevisedmond Vs Joint Commissioner of GST & Central Excise (Madras High Court)

Appeal Number : W.P.Nos.34646 & 34651 of 2023

Date of Judgement/Order : 18/12/2023

Related Assessment Year : Courts : All High Courts (12236) Madras High Court (1397)

Johnson Bevisedmond Vs Joint Commissioner of GST & Central Excise (Madras High Court)

Introduction: The Madras High Court recently issued a stay on GST recovery proceedings in the case of Johnson Bevisedmond vs Joint Commissioner of GST & Central Excise. This decision came in response to alleged violations of principles of natural justice, specifically concerning the petitioner's failure to appear for personal hearings due to the late receipt of notices. Detailed Analysis: The petitioner, Johnson Bevisedmond, challenged the order dated 29.03.2023, passed by the 1st respondent, and the subsequent recovery letter dated 14.09.2023 from the 2nd respondent. The petitioner argued that despite being entitled to three opportunities for personal hearings, he was only provided with two. Additionally, the notices were received belatedly due to a change in residence from Chennai to Trichy, coupled with the petitioner's involvement in conducting examinations. The petitioner urged the court to set aside the impugned order or allow him to file an appeal without the constraints of limitation. The respondent's counsel, acknowledging the petitioner's intent to file an appeal, proposed that the court grant liberty for the petitioner to approach the Appellate Authority.

After hearing arguments from both parties and examining the available materials, the Madras High Court granted the petitioner the liberty to file an appeal within 30 days. The Appellate Authority is instructed to entertain the appeal without insisting on the issue of limitation and make decisions in accordance with the law. Simultaneously, an interim stay on recovery proceedings was ordered until the

appeal is filed. The court clarified that the interim stay would automatically be lifted if the petitioner failed to file the appeal within the specified 30-day period.

Conclusion: In conclusion, the Madras High Court's decision in Johnson Bevisedmond's case provides relief by staying GST recovery proceedings. The court emphasized the importance of adhering to principles of natural justice and granted the petitioner the opportunity to file an appeal without limitations. This development serves as a reminder of the significance of procedural fairness in legal proceedings related to taxation matters.

18.Approach Assistant Commissioner for Overlapping Issuance of DRC-01

Notice Twice: Madras HC

**Case Name : HDFC Sales Private Limited Vs Assistant Commissioner (ST)(FAC)
(Madras High Court)**

Appeal Number : W.P No.36163 of 2023

Date of Judgement/Order : 22/12/2023

Related Assessment Year :

Courts : All High Courts (12246) Madras High Court (1398)

HDFC Sales Private Limited Vs Assistant Commissioner (ST)(FAC) (Madras High Court)

Introduction: The writ petition filed by HDFC Sales Private Limited challenges the notice dated 14.09.2023 issued by the Assistant Commissioner (ST)(FAC). The petitioner contends that the said notice overlaps with a previous notice dated 29.08.2023 and raises concerns about jurisdiction. The Madras High Court, at the admission stage, considered the petitioner's grievances and directed a resolution before the respondent.

Background: The petitioner argues that the DRC-01 notice was issued twice, on 29.08.2023 and 14.09.2023, leading to an overlap of the two notices. Additionally, the petitioner questions the jurisdiction of the respondent. The court is presented with the request to intervene and set aside the show cause notice.

Court's Decision: The Madras High Court, after hearing both parties, declines to interfere with the show cause notice at this stage. Instead, it directs the petitioner to approach the respondent and raise all grievances before them. The court emphasizes that the respondent should consider and address all the issues raised by the petitioner in accordance with the law.

Court's Directions:

- The respondent is instructed to issue a detailed show cause notice to the petitioner by the following day (23.12.2023).
- The petitioner is directed to file a reply on or before 27.12.2023.
-

After receiving the reply, the respondent is directed to schedule a hearing and pass orders by 29.12.2023. The court instructs the respondent to comprehensively address the issues of overlapping show cause notices and jurisdiction in the final order.

Conclusion: The Madras High Court's decision in HDFC Sales Pvt Ltd vs. Assistant Commissioner highlights the court's reluctance to intervene at the admission stage. Instead, it directs the petitioner to pursue the resolution of grievances before the respondent, setting a timeline for the issuance of a detailed notice, filing of a reply, and the final order.

19.Madras HC Extends Time Limit for GST Appeal with required pre-deposit

Case Name : Trans Car India Private Limited Vs Additional Commissioner (Madras High Court)

Appeal Number : W.A. No. 3497 of 2023

Date of Judgement/Order : 19/12/2023

Related Assessment Year : Courts : All High Courts (12246) Madras High Court (1398)

Trans Car India Private Limited Vs Additional Commissioner (Madras High Court)

Introduction: The Madras High Court, in the case of Trans Car India Private Limited vs. Additional Commissioner, addressed the imposition of penalties under the GST Act. The appellant challenged Order-in-Original No.25 of 2023 (DGGI) dated 31.05.2023, asserting that the first respondent acted arbitrarily without jurisdiction. The learned Judge, in W.P. No. 27678 of 2023, disposed of the writ petition with specific observations and directions.

Detailed Analysis: The appellant, dissatisfied with the order of the learned Judge, filed a writ appeal against the decision. The crux of the matter lies in the imposition of penalties and interest under the Central Goods and Services Tax (CGST) Act, 2017, State Goods and Services Tax (SGST) Act, 2017, and Integrated Goods and Services Tax (IGST) Act, 2017. The learned Judge, in the order dated 22.09.2023, granted the appellant the liberty to challenge the impugned Order-in-Original within thirty days from the date of receipt of the order. Additionally, the appellant was directed to deposit 10% of Rs.14,88,370/- towards pre-deposit along with the proposed appeal.

During the appeal proceedings, the appellant's counsel sought an extension of the time limit granted by the learned Judge for filing an appeal and the pre-deposit amount. The court, considering the submission, extended the time limit by a further period of eight weeks, starting from the current date. The appellant is instructed to file the appeal before the first respondent along with the required pre-deposit within this extended time frame. The first respondent is directed to consider the appeal without raising any limitation issues and pass an appropriate

order on merits and in accordance with the law, providing an expeditious opportunity for the appellant to present their case.

Conclusion: The Madras High Court's decision in the Trans Car India case highlights the importance of procedural aspects in challenging GST penalties. The extension of the time limit for filing an appeal and the specific directions regarding pre-deposit provide the appellant with an opportunity to present their case more comprehensively. This case serves as a precedent for addressing time constraints in GST appeals, emphasizing a fair and just process for resolving disputes.

20.Proceedings during moratorium should involve Official Liquidator:

Kerala HC

Case Name : Platino Classic Motors India Pvt Ltd Vs Deputy Commissioner of Central Tax And Central Excise (Kerala High Court)

Appeal Number : WA No. 1953 of 2023

Date of Judgement/Order : 18/12/2023

Related Assessment Year :

Courts : All High Courts (12246) Kerala High Court (728)

Platino Classic Motors India Pvt Ltd Vs Deputy Commissioner of Central Tax And Central Excise (Kerala High Court)

Introduction: The Kerala High Court, in the case of Platino Classic Motors India Pvt Ltd vs Deputy Commissioner of Central Tax and Central Excise, addressed an appeal challenging a judgment related to unpaid service tax and central excise dues. The appellant, a private limited company, faced insolvency resolution proceedings, leading to a moratorium. The dispute arose when the respondents claimed dues after the moratorium period, prompting the appellant to contest the proceedings.

Detailed Analysis: The National Company Law Tribunal initiated corporate insolvency resolution proceedings against the appellant on 08.03.2021, imposing a moratorium under Section 14 of the Insolvency and Bankruptcy Code. Subsequently, a liquidation order was passed on 30.09.2022, initiating a fresh moratorium. During this period, the 1st and 2nd respondents claimed unpaid service tax and central excise dues based on orders Exts.P7 and P8. Additionally, the 3rd respondent made a claim under the GST Act with orders Exts.P9 and P10. The appellant contested, arguing that the proceedings could not conclude without involving the Official Liquidator. The learned Single Judge, however, rejected the contention, stating that the insolvency resolution process's admission and moratorium did not bar tax recovery proceedings. The Writ Appeal ensued, with the court hearing the appellant's counsel and the Senior Standing Counsel for the respondents.

The court, after considering the submissions, directed respondents 1, 2, and 3 to pass fresh orders, replacing Exts.P7 to P10, after hearing the Official Liquidator within two months. The court also set aside the previous orders/notices and instructed the respondents to issue a fresh notice to the Official Liquidator within three weeks.

Conclusion: The Kerala High Court's directive provides a balanced approach, recognizing the moratorium's impact on proceedings but emphasizing the necessity of involving the Official Liquidator. The decision ensures a fair opportunity for the Official Liquidator to participate in the assessment and adjudication proceedings, maintaining the principles of justice and due process in the context of insolvency resolution. This case sets a precedent for similar situations, underlining the importance of considering the role of the Official Liquidator in post-moratorium proceedings.



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18. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****19. NOTIFICATION**

The 22nd December, 2023

No. S.O. 93/P.A.5/2017/Ss. 9,11,15, 16 and 148/2023.- In exercise of the powers conferred by sub-section (1), sub-section (3) and sub-section

(4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O 17/P.A.5/2017/Ss.9,11,15 and 16/ 2017 dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

20. AMENDMENT

In the said notification, in the Table, against serial number 9, in item (iii), in sub- item (b), in the entries under column (5), in condition (2), after the second proviso, the following provisos shall be inserted, namely:-

“Provided also that the option for the Financial Year 2023-2024 shall be exercised on or before the 31st May, 2023:

Provided also that a GTA who commences new business or crosses threshold for registration during any Financial Year, may exercise the option to itself pay GST on the services supplied by it during that Financial Year by making a declaration in Annexure V before the expiry of forty-five days from the date of applying for GST registration or one month from the date of obtaining registration whichever is later.”.

2. This notification shall be deemed to have come into force on and with effect from the 9th day of May, 2023.

21. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

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22. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****23. NOTIFICATION**

The 22nd December, 2023

No.S.O. 94/P.A.5/2017/Ss. 9, 11,15, 16 and 148/2023.- In exercise of the powers conferred by sub-section (1), sub-section (3) and sub-section

(4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O 17/P.A.5/2017/Ss.9,11,15 and 16/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

24. AMENDMENT

In the said notification, -

(A) in the Table,

(i) against serial number 3, in column (3), in item (ie), following explanation shall be inserted, namely:-

“Explanation. –This item refers to sub-items of the item (iv), (v) and (vi), against serial number 3 of the Table as they existed in the notification prior to their omission vide notification No. S.O. 5/P.A.5/2017/Ss.9,11,15,16 and 148/2023 dated the 27th January, 2023”;

(ii) against serial number 9, in column (3), in item (iii), in sub-item (b), in the entries under column (5), in condition (2), -

(a) for the words, figures and letters “on or before the 15th March of the preceding Financial Year”, the words, figures and letters “on or after the 1st January of the preceding Financial Year but not later than 31st March of the preceding Financial Year” shall be substituted;

(b) after the fourth proviso, the following proviso shall be inserted, namely:-

“Provided also that the option exercised by GTA to itself pay GST

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on the services supplied by it during a Financial Year shall be deemed to have been exercised for the next and future financial years unless the GTA files a declaration in Annexure VI to revert under reverse charge mechanism on or after the 1st January of the preceding Financial Year but not later than 31st March of the preceding Financial Year.”;

(iii) against serial number 24, in column (3), in item (i), in the *Explanation*, in clause(i) , sub-clause(h) shall be omitted.

(B) in Annexure V,

(i) in para 2, for the words “end of the financial year for which it is exercised”, the words and figures “the start of the financial year for which I exercise option to revert under reverse charge mechanism by filing Annexure VI on or before the due date” shall be substituted;

(ii) in note to the Annexure, for the words, figures and letters “The last date for exercising the above option for any financial year is the 15th March of the preceding financial year”, the words, figures and letters “The above option for any Financial Year shall be exercised on or after 1st January of the preceding Financial Year but not later than 31st March of the preceding Financial Year” shall be substituted;

(C) after Annexure V, the following Annexure shall be inserted, namely:-

“Annexure VI

FORM

Form for exercising option by a Goods Transport Agency intending to revert under reverse charge mechanism to be filed before the commencement of any financial year to be submitted before the jurisdictional GST Authority.

Reference No.-

Date: -

1. I/We _____ (name of Person), authorized representative of M/s had exercised option to pay GST on the services of GTA in relation to transportation of goods supplied by us during, the financial year.....under forward charge by filing Annexure V on.;
2. I hereby declare that I want to revert to reverse charge mechanism for Financial Year..... ;

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3. I understand that this option once exercised shall not be allowed to be changed within a period of one year from the date of exercising the option and will remain valid till the end of the financial year for which it is exercised.

Legal Name: -

GSTIN: - PAN

No.

Signature of Authorized representative:

Name Authorized Signatory :

Full Address of GTA:

(Dated Acknowledgment of jurisdictional GST Authority)

Note: The above option for any Financial Year shall be exercised on or after 1st January of the preceding Financial Year but not later than 31st March of the preceding Financial Year”.

2. This notification shall be deemed to have come into force on and with effect from 27th day of July, 2023.

25.VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(DAIISA 2 1915 SAKA)

26. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****27. NOTIFICATION**

The 22nd December, 2023

No.S.O. 95/P.A.5/2017/Ss. 9,11, 15 and 148/2023.- In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O 37/P.A.5/ 2017/S.11/2017 dated the 30th June,2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

28. AMENDMENT

In the said notification, in the Table, against serial number 19C, for the entry in column (3), the following entry shall be substituted; namely:-

(3)

“Satellite launch services.”

2. This notification shall be deemed to have come into force on and with effect from 27th day of July, 2023.

29. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(DAIISA 2 1915 SAKA)

30. PART III

GOVERNMENT OF PUNJAB

**DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)**

31. NOTIFICATION

The 22nd December, 2023

No.S.O. 96/P.A.5/2017/S.9/2023.-In exercise of the powers conferred by sub-section (3) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O. 35/P.A.5/2017/S.9/ 2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

32. AMENDMENT

In the said notification, in Annexure III, for the words and figures “during the Financial Year _____ under forward charge”, the words and figures “from the Financial Year _____ under forward charge and have not reverted to reverse charge mechanism” shall be substituted;

2. This notification shall be deemed to have come into force on and with effect from the 27th day of July, 2023.

33.VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(DAIICA 2 1015 CAKA)

34. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****35. NOTIFICATION**

The 22nd December, 2023

No. S.O. 97/P.A.5/2017/S. 9 and 15/2023.- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Punjab Goods and Services Tax Act, 2017(Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.16/P.A.5/ 2017/S.9/2017 dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely: -

36. AMENDMENT

In the said notification, -

A. in Schedule I @ 2.5%,

- (i) after S. No. 99A and entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
-----	-----	-----

"99B. 1905	Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion";	
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- (ii) after S. No. 108 and entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
-----	-----	-----

"108A. 2309	Fish soluble paste";	
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- (iii) after S. No. 156A and entries relating thereto, the following S. No. and entries shall be inserted, namely:-

(1)	(2)	(3)
-----	-----	-----

"156B. 2619	Linz-Donawitz (LD) Slag ";	
-------------	----------------------------	--

- (iv) after serial number 218A and the entries relating thereto, the

following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
"218AA. 56050020		Imitation zari thread or yarn known by any name in trade parlance";

- B. in Schedule II @ 6%, against S. No. 137, for the entry in column (3), the entry "Metallised yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal, other than- (i) real zari thread (gold) and silver thread combined with textile thread (ii) imitation zari thread or yarn known by any name in trade parlance" shall be substituted;
- C. in Schedule III @ 9%,
- (i) against S. No. 16, in column (3), for the words "toasted bread and similar toasted products", the words "toasted bread and similar toasted products, un- fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion" shall be substituted;
- (ii) against S. No. 28, for the entry in column (3), the entry "Slag, dross (other than granulated slag), scalings and other waste from the manufacture of iron or steel, other than Linz-Donawitz (LD) slag" shall be substituted;
2. This notification shall be deemed to have come into force on and with effect from the 27th day of July, 2023.

37.VIKAS PRATAP,

Financial Commissioner (Taxation) to
 Government of Punjab, Department of
 Excise and Taxation.

(DAIICA 2 1QAE CAKA)

38. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****39. NOTIFICATION**

The 22nd December, 2023

No.S.O. 98/P.A.5/2017/S.11/2023.- In exercise of the powers conferred by sub-section (1) of section 11 of the Punjab Goods and Services Tax Act, 2017(Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.20/P.A.5/2017/S.11/2019, dated the 28th February, 2019 published in the Punjab Government Gazette (Extraordinary), Part III, dated the 28th February, 2019, namely:-

40. AMENDMENT

In the said notification, -

- (A) in the opening paragraph, for the phrase “paragraph 4.41”, the phrase “paragraph 4.40”, shall be substituted;
- (B) in the Explanation, -
 - (i) for clause (a), the following clause shall be substituted, namely: —
“(a) “Foreign Trade Policy” means the Foreign Trade Policy, 2023, notified by the Government of India in the Ministry of Commerce and Industry vide notification No. 1/2023 dated the 31st March, 2023, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-Section (ii) vide S.O. 1565 (E). dated the 31st March, 2023.”.
 - (ii) for clause (b), the following clause shall be substituted, namely: —
“(b) “Handbook of Procedures” means the Handbook of Procedure, notified by the Government of India in the Ministry of Commerce and Industry vide Public Notice No. 01/2023 dated the 1st April, 2023, Extraordinary, Part-I, Section 1 vide F. No. 01/75/171/00016/ AM-23/FTP Cell dated the 1st April, 2023.”.

2. This notification shall be deemed to have come into force on and with effect from the 27th day of July, 2023.

41.VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

No. S.O. 99/P.A.5/2017/Ss. 9 and 15/2023.- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.16/P.A.5/ 2017/S.9/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

42. AMENDMENT

In the said notification,-

(i) in Schedule IV-

(a) after S. No. 227 and the entries related thereto, the following S. No. and entries shall be inserted, namely:-

(1)	(2)	(3)
"227A	Any	Specified actionable claim;
Chapter	<i>Explanation:</i> "specified actionable claim" as defined in section 2(102A) of the PGST Act, 2017 means the actionable claim involved in or by way of—	
	(i) betting;	
	(ii) casinos;	
	(iii) gambling;	
	(iv) horse racing;	
	(v) lottery; or	
	(vi) online money gaming;";	

(b) S. No. 228 and 229 and the entries relating thereto shall be omitted.

(ii) in the *Explanation*, after clause (iv), the following clause shall be inserted, namely:

"(v) The words and expressions used and not defined in this notification, but defined in the Punjab Goods and Service Tax Act, 2017 (Punjab Act No.5 of 2017), shall have the same meanings as assigned to them in the said Act."

(PAUSA 8, 1945 SAKA)

**PART III GOVERNMENT OF
PUNJAB**

DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)

NOTIFICATION

The 22nd December, 2023

2. This notification shall be deemed to have come into force on and with effect from the 1st day of October, 2023.

43. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

3002/12-2023/Pb. Govt. Press, S.A.S. Nagar

(PAUSA 8, 1945 SAKA)

**PART III GOVERNMENT OF
PUNJAB**DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)**NOTIFICATION**

The 22nd December, 2023

No.S.O. 100/P.A.5/2027/Ss. 9, 11, 15, 16 and 148/2023.- In exercise of the powers conferred by sub-section (1), sub-section (3) and sub-section

(4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O 17/P.A.5/2017/Ss.9,11,15 and 16/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

44. AMENDMENT

In the said notification, -

(A) in the Table,

(i) against serial number 8, in column (3), in item (vi), after the condition in column (5) against the rate of 2.5 percent, the following condition shall be inserted, namely:-

“Provided further that where the supplier of input service in the same line of business charges state tax at a rate higher than 2.5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 2.5%, shall not be taken.

Illustration: ‘A’ engages ‘B’ for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. ‘B’, for supplying the said service, hires a motor cab with operator from ‘C’ for Rs. 800. ‘C’ charges ‘B’ state tax at the rate of 6% (Rs. 48). If ‘B’ charges ‘A’ state tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by ‘C’ only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48.”;

(ii) against serial number 10, in column (3), in item (i), after the condition in column (5) against the rate of 2.5 percent, , the following

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**PART III GOVERNMENT OF
PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)**

condition shall be inserted, namely:-

NOTIFICATION

“Provided further that where the supplier of input service in the same line of business charges state tax at a rate higher than 2.5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 2.5%, shall not be taken.

Illustration: ‘A’ engages ‘B’ for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. ‘B’, for supplying the said service, hires a motor cab with operator from ‘C’ for Rs. 800. ‘C’ charges ‘B’ state tax at the rate of 6% (Rs. 48). If ‘B’ charges ‘A’ state tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by ‘C’ only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48.”

(iii) against serial number 34, -

(a) in column (3), in item (iv), for the words “totalisator or a license to” , the words “licensing a” shall be substituted;

(b) in column (3), item (v) and the entries relating thereto shall be omitted;

(B) in the Annexure, Scheme of Classification of Services,-

(i) serial number 696 and the entries relating thereto shall be omitted;

(ii) serial number 698 and the entries relating thereto shall be omitted;

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

45.VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(PAUSA 8, 1945 SAKA)

**PART III GOVERNMENT OF
PUNJAB**

DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)

NOTIFICATION

The 22nd December, 2023

No. S.O. 101/P.A.5/2017/Ss. 9, 11, 15 and 148/2023. - In exercise of the powers conferred by sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O 37/P.A.5/ 2017/S.11/2017 dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

46. AMENDMENT

In the said notification, in the Table, -

(1.) after serial number 3A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“3B	Chapter 99	Services provided to a Governmental Authority by way of -	Nil	Nil”;
		(a) water supply;		
		(b) public health;		
		(c) sanitation conservancy;		
		(d) solid waste management; and		
		(e) slum improvement and upgradation.		

(2.) against serial number 6, in column (3), in item (a), after the words “Department of Posts”, the words and brackets “and the Ministry of Railways (Indian Railways)” shall be inserted;

(3.) against serial number 7, in column (3), in the Explanation, in item (a), in sub-item(i), after the words “Department of Posts”, the words and brackets “and the Ministry of Railways (Indian Railways)” shall be inserted;

(4.) against serial number 8, in column (3) in the proviso, in item (i), after the words “Department of Posts”, the words and brackets “and the Ministry

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**PART III GOVERNMENT OF
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**DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)**

of Railways (Indian Railways)” shall be inserted;

(5.) against serial number 9, in column (3), in the first proviso, in item (i), after the words “Department of Posts”, the words and brackets “and the Ministry of Railways (Indian Railways)” shall be inserted; **NOTIFICATION**
The 22nd December, 2023

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

47. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

3002/12-2023/Pb. Govt. Press, S.A.S. Nagar

(PAUSA 8, 1945 SAKA)

**PART III GOVERNMENT OF
PUNJAB**

**DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)**

No. S.O. 102/P.A.5/2017/S.9/2023.- In exercise of the powers conferred by sub-section (3) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O. 35/P.A.5/2017/S.9/ 2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

48. AMENDMENT

In the said notification, in the Table, -

- (i) against serial number 5, in column (2), in item (2), in sub-item (i), after the words "Department of Posts", the words and brackets "and the Ministry of Railways (Indian Railways)" shall be inserted;
- (ii) against serial number 5A, in column (2), after the words "Services supplied by the Central Government", the words and brackets "[excluding the Ministry of Railways (Indian Railways)]" shall be inserted.

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

49. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(PAUSA 8, 1945 SAKA)

50. PART III

GOVERNMENT OF PUNJAB
PART III GOVERNMENT OF
DEPARTMENT OF EXCISE AND TAXATION (EXCISE
PUNJAB
AND TAXATION-II BRANCH)

51. NOTIFICATION
DEPARTMENT OF EXCISE AND TAXATION (EXCISE AND
TAXATION-II BRANCH)

The 22nd December, 2023

No. S.O. 103/P.A.5/2017/S. 54/2023.- In exercise of the powers conferred by sub-section (3) of section 54 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.19 /P.A.5/2017/S.54/ 2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

52. AMENDMENT

In the said notification, in opening paragraph , for the words, brackets, letters and figures “specified in sub-item (b) of item 5 of Schedule II of the said Act”, the words, “of construction of a complex, building or a part thereof, intended for sale to a buyer, wholly or partly, where the amount charged from the recipient of service includes the value of land or undivided share of land, as the case may be, except where the entire consideration has been received after issuance of completion certificate , where required , by the competent authority or after its first occupation , whichever is earlier”, shall be substituted.

2. This notification shall be deemed to have come into force on and with effect from the 20th October, 2023.

53. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(DAIICA 2 104E CAKA)

54. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****55. NOTIFICATION**

The 22nd December, 2023

No. S.O. 104/P.A.5/2017/S.9/2023.- In exercise of the powers conferred by sub-section (5) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.21/P.A.5/2017/S.9/ 2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

56. AMENDMENT

In the said notification,

- (i.) in clause (i), for the words “omnibus or any other motor vehicle”, the words “or any other motor vehicle except omnibus” shall be substituted;
- (ii.) after clause (i), the following clause shall be inserted, namely:-
“(ia) services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company.”;
- (iii.) in the Explanation, after item (c), the following item shall be inserted, namely:
-
“(d) “Company” has the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013(18 of 2013).”.

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

57. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(DAHISA 2 1945 SAKA)

58. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****59. NOTIFICATION**

The 22nd December, 2023

No. S.O. 105/P.A.5/2017/Ss. 9 and 15/2023 .- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.16/P.A.5/2017/S.9/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

60. AMENDMENT

In the said notification, -

(A) in Schedule I @ 2.5%, -

(i) after S. No. 92 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)

“92A. 1703 Molasses”;

(ii) after S. No. 96 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)

“96A. 1901 Food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled”;

(B) in Schedule III @ 9%,

(i) against S. No. 13, in column (3), for the words and figures “of heading 1905”, the words and figures “of heading 1905; food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled ” shall be substituted;

(DAILY & 10/15 SAKA)

(ii) after S. No. 25 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
“25A. 2207		Spirits for industrial use”; 10
	12	

(C) in Schedule IV @ 14%, S. No. 1 and the entries relating thereto shall be omitted.

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

61. VIKAS PRATAP,
Financial Commissioner (Taxation) to
Government of Punjab,
Department of Excise and Taxation.

(DAIICA 2 1QAE CAKA)

62. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****63. NOTIFICATION**

The 22nd December, 2023

No. S.O. 106/P.A.5/2017/S.11/2023 .- In exercise of the powers conferred by sub-section (1) of section 11 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.18/P.A.5/2017 /S.11/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

64. AMENDMENT

In the said notification, in the Schedule, after S. No. 94 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
-----	-----	-----

“94A. 1901 Food preparation of millet flour, in powder form, containing at least 70% millets by weight, other than pre-packaged and labelled”.

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

65. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(DAHISA 2 1015 SAKA)

66. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****67. NOTIFICATION**

The 22nd December, 2023

No. S.O. 107/P.A.5/2017/S.9/2023.- In exercise of the powers conferred by sub-section (3) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.28/P.A.5/2017/S.9 /2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

68. AMENDMENT

In the said notification, in the Table, against S. No. 6, in column 4, for the entry, the following entry may be substituted, namely: -

“Central Government [excluding Ministry of Railways (Indian Railways)], State Government, Union territory or a local authority.”

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

69. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(DAHISA 2 1015 SAKA)

70. PART III**GOVERNMENT OF PUNJAB****DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)****71. NOTIFICATION**

The 22nd December, 2023

No.S.O. 108/P.A.5/2017/S.54/2023 .- In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, on being satisfied that it is necessary in the public interest so to do, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.29/P.A.5/ 2017/S.54/2017, dated the 30th June, 2017, published in the Punjab Government Gazette (Extraordinary), Part III, dated the 30th June, 2017, namely:-

72. AMENDMENT

In the said notification, in the Table, after S. No. 6A and the entries relating thereto, following S.No. and the entries shall be inserted, namely:-

(1)	(2)	(3)
"6AA. 5605	Imitation zari thread or yarn made out of Metallised polyester film /plastic film;	Explanation: This entry shall apply for refund of input tax credit only on polyester film /plastic film";

2. This notification shall be deemed to have come into force on and with effect from the 20th day of October, 2023.

73. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

**74. PART III GOVERNMENT OF
PUNJAB**
DEPARTMENT OF HOME AFFAIRS AND JUSTICE (JUDICIAL- 2
BRANCH)

75. NOTIFICATION

The 27th December, 2023.

No. S.O. 109/P.A.13/2013/S.3/2023.- In supersession of all notifications issued in this behalf and in exercise of the powers conferred by sub-section (2) of section 3 of the Punjab State Commission for Minorities Act, 2012 (Punjab Act 13 of 2013), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to appoint the following person, to be the Chairperson of the Punjab State Commission for Minorities, constituted vide the Government of Punjab, Department of Home Affairs and Justice (Minority Cell/Civil Defence Branch) Notification No. S.O. 179/P.A.13/2013/S.3/2014, dated the 26th November, 2014, as specified in the Table given below, namely:-

TABLE

Serial No.	Name of the Person	Office held	Community represented
1.	2.	3.	4.
1.	Sh. Abdul Bari Salmani s/o Sh. Abdul Hamid, R/o House No. 195, Street No. 10, Tej Mohan Nagar, Basti Sheikh, Jalandhar	Chairperson	Muslim

76.GURKIRAT KIRPAL SINGH,

Secretary to Government of Punjab, Department of
Home Affairs and Justice.