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GST LAW COMMUNIQUE

Latest updates for the month of June 2024

Recommendations of 53rd GST Council Meeting



The 53rd GST Council met under the Chairpersonship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman in New Delhi today. The meeting was also attended by Union Minister of State for Finance Shri Pankaj Chaudhary, Chief Ministers of Goa and Meghalaya; Deputy Chief Ministers of Bihar, Haryana, Madhya Pradesh, and Odisha; besides Finance Ministers of States & UTs (with legislature) and senior officers of the Ministry of Finance & States/UTs.

(Source: PIB press release dt. 22.06.2024)

Incorporating

- 1] Important Notifications
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A] Important Recommendations of the 53rd GST Council meeting.

A] Changes in the rate of tax on Goods:

Sr No	Particulars	Tax Rate
1	'Parts, components, testing equipment, tools, and toolkits of aircrafts for MRO	5%
2	Milk cans (All types) irrespective of the use	12%
3	Carton, boxes and cases of both corrugated and non-corrugated paper or paper-board (HS 4819 10; 4819 20)	12%
4	Solar cookers	12%
5	Parts of Poultry keeping Machinery	12%
6	All types of sprinklers including fire water sprinklers	12%
7	Imports of specified items for defence forces till 30 th June, 2029	Nil
8	Imports of research equipment/buoys imported under RAMA programme S.T. condition	Nil
9	Compensation Cess on the imports in SEZ by SEZ Unit/developers for authorised operations. (w.e.f. 01-07-2017)	Nil
10	Compensation cess on supply of aerated beverages and energy drinks to authorised customers by Unit Run Canteens under Ministry of Defence	Nil
11	Imports of technical documentation for AK-203 rifle kits imported for Indian Defence forces.	Nil IGST

B] Changes in the rate of tax on Services:

Sr No	Particulars	Tax Rate
1	Services provided by Indian Railways to general public, namely, sale of platform tickets, facility of retiring rooms/waiting rooms, cloak room services and battery-operated car services	Nil
2	Intra-Railway transactions	Nil
3	Certain services provided by SPV to the Indian Railway	Nil
4	Accommodation Services having value of supply of accommodation up to Rs. 20,000/- per month subject to certain conditions	Nil
5	Various exemptions on insurance and banking services	Nil

C] Measures for facilitation of trade:

1) Conditional waiver of interest or penalty or both, relating to demands raised under Section 73, for FY 2017-18 to FY 2019-20: The GST Council recommended, waiving interest and penalties for demand notices except demand on account of the erroneous refund issued under Section 73 of the CGST Act for the fiscal years 2017-18, 2018-19 and 2019-20, subject to payment of tax demand up to 31.03.2025.

2) Monetary limit in case of an appeal by the department: The council has prescribed monetary limits for filing an appeal to GSTAT, High Court and Supreme Court as follows:

- **GSTAT:** Rs. 20 lakhs
- **High Court:** Rs. 1 crore
- **Supreme Court:** Rs. 2 crores

However, the above monetary limits are subject to certain exclusions such as valuation, classification, refund, place of supply etc. as stated in Circular No. 207/1/2024-GST dt. 26-06-2024.

3) Reduction in pre-deposit in case of Appeal: The GST Council recommended reducing the amount of pre-deposit for filing of appeals under GST to ease cash flow and working capital blockage for the taxpayers. Presently, a registered person is required to pay 10% of the Tax amount as the pre-deposit Subject to a maximum of 25 Crores (Each in CGST & SGST). The maximum limit of 25 crores is reduced to 20 crores each in CGST & SGST. Similarly, in the case of appeal to the Tribunal, an additional pre-deposit of 20% of the Tax amount subject to a maximum of 50 Crores (Each in CGST & SGST) is specified under Section 112. Said limit is reduced to 10% of the Tax amount subject to a maximum of 20 Crores (Each in CGST & SGST).

4) Reduction in rate of TCS to be collected by the E-Commerce operators: TCS rate on supply through E-Commerce operator has been reduced to 0.5 % (0.25% each in CGST & SGST) from 1% (0.5% each in CGST & SGST)

5) Time for filing appeals in GST Appellate Tribunal: The GST Council recommended amending Section 112 of the CGST Act, 2017 to allow the three-month period for filing appeals before the Appellate Tribunal to start from a date to be notified by the Government in respect of appeal/ revision orders passed before the date of said notification. This will give sufficient time for the taxpayers to file appeals before the Appellate Tribunal in the pending cases.

6) Relaxation in the condition of Section 16(4): The time limit to avail input tax credit in respect of any invoice or debit note under Section 16(4) of CGST Act, through any return in FORM GSTR 3B filed upto 30.11.2021 for the financial years 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021.

In case of cancellation of registration, provisions of Section 16(4) are conditionally waived if returns are filed within 30 days of the order of revocation

In the case of supplies received from the unregistered person which is subject to payment under RCM, the relevant financial year for calculation of the time limit for availment of input tax credit under the provisions of section 16(4) of CGST Act is the financial year in which the invoice has been issued by the recipient. The relaxation is applicable only in case of supply received from the unregistered person

7) No interest to the extent of the balance in ECL: Amendment is proposed in Rule 88B of CGST Rules to provide that an amount, which is available in the Electronic Cash Ledger on the due date of filing of return in FORM GSTR-3B, and is debited while filing the said return, shall not be included while calculating interest under Section 50 of the CGST Act in respect of delayed filing of the said return.

8) Refund of IGST paid on account of upward revision: The GST Council recommended prescribing a mechanism for claiming a refund of additional IGST paid on account of upward revision in the price of the goods subsequent to their export.

9) Valuation of import of Services by a related person: The Council recommended that when a foreign affiliate provides services to a related domestic entity, and the domestic entity is eligible for a full input tax credit, the value declared in the invoice by the domestic entity can be considered as the open market value under the second proviso to rule 28(1) of the CGST Rules. Additionally, if the domestic entity does not issue an invoice for these services, the value may be deemed as Nil and treated as the open market value according to the same rule.

10) Valuation of corporate guarantee provided between related persons: Amendment of rule 28(2) of CGST Rules retrospectively with effect from 26.10.2023 is proposed and issuance of a circular to clarify various issues regarding the valuation of services of providing corporate guarantees between related parties. It is inter alia being clarified that valuation under rule 28(2) of CGST Rules would not be applicable in case of export of such services and also where the recipient is eligible for full input tax credit.

11) Introduction of GSTR-1A: Council recommended providing a new facility in FORM GSTR-1A to amend the GSTR-1 before filing of FORM GSTR-3B to ensure that correct liability is declared.

12) Exemption from filing GSTR-9/9A: Taxpayer whose turnover is less than 2 crores p.a. are exempted from filing of FORM GSTR-9/9A for FY. 2023-24.

13) Insertion of Section 74A for time limit for issuance of notice: Council has recommended inserting Section 74A to define the time limit for the notices irrespective of whether it is under Section 73 or 74. Time limit for payment of dues with interest is proposed to be increased from 30 days to 60 days.

14) The threshold for reporting B2CL in GSTR-1 is proposed to be reduced to Rs. 1 lakh from 2.5 lakhs.

B] Important Circulars/Clarifications.

1) Clarification on place of supply, where billing state and delivery state is different: It is clarified that in such cases involving the supply of goods to an unregistered person, where the address of delivery of goods recorded on the invoice is different from the billing address of the said unregistered person on the invoice, the place of supply of goods in accordance with the provisions of clause (ca) of sub-section (1) of section 10 of IGST Act, shall be the address of delivery of goods recorded on the invoice i.e. State Y in the present case where the delivery address is located.

Circular No.209/3/2024-GST dt. 26th June, 2024

2) Clarification on valuation of supply of import of services by a related person: it is clarified that in cases where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

Circular No.210/4/2024-GST dt. 26th June, 2024

3) Clarification on time limit under Section 16(4) of CGST Act, 2017 in case of RCM: It is clarified that for supplies received from unregistered suppliers, where tax is paid by the recipient under the reverse charge mechanism (RCM) and the invoice is issued by the recipient as per section 31(3)(f) of the CGST Act, the financial year for calculating the time limit for availing input tax credit (ITC) under section 16(4) of the CGST Act will be the year in which the recipient issues the invoice. This is subject to the payment of tax by the recipient and compliance with sections 16 and 17 of the CGST Act. If the recipient issues the invoice after the time of supply and pays tax accordingly, interest on the delayed tax payment will be applicable. Additionally, the recipient may face penalties under section 122 of the CGST Act for delayed invoice issuance.

Circular No. 211/5/2024-GST dt. 26th June, 2024

4) Clarification on ITC reversal on post-sale discount: Supplier is allowed to issue credit note with GST under Section 34 only if such discount is subject to fulfilment of conditions under Section 15(3)(b)(ii). Section 15(3)(b)(ii) puts following conditions-

- Such discount must be the part of agreed term entered into before or at the time of supply and
- Proportionate ITC is reversed by the supplier.

However, there is no facility/mechanism to check the reversal made by the recipient. The supplier may procure the certificate from the CA or CMA certifying that the recipient has reversed the proportionate credit where the tax amount involved in such credit note is more than Rs. 5 lakhs. In other cases supplier undertaking is sufficient. Certificate is expected to include details such as the relevant invoice number for which the credit note is issued, the amount of ITC reversed along with the details of the form in which such credit is reversed. The certificate must contain the UDIN generated from the websites of ICAI and ICMAI. It is clarified that certificates may be obtained for the prior period i.e. period before the introduction of this circular.

Circular No. -212/6/2024-GST dt. 26.06.2024

5) Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/ Extended Warranty: CBIC vide Circular No. 195/07/2023-GST dated 17.07.2023 has already clarified the taxability in the case of replacement of parts under warranty. However, sometimes entire goods need to be replaced under warranty. It has been clarified that such clarification will hold good even in cases where entire goods are replaced. It is also clarified that no GST is payable, or reversal of ITC is needed in cases where the distributor replaces the part upfront out of his stock and gets the replacement subsequently from the manufacturer without charging any additional cost. It is also clarified that in case where the warranty is extended at the time of original supply and the supplier of goods is different from the supplier of the extended warranty, the extended warranty should be treated as a separate and independent transaction. In case of purchase of warranty subsequent to original supply shall be treated as a separate supply i.e. supply of services and GST is payable accordingly.

Circular No. 216/10/2024-GST dt. 26th June 2024

C] Important Instructions.

There were no new instructions issued during the month.

D] Important Case-laws

1] Sri Kumaran Steels Vs. Deputy State Tax Officer-I, Coimbatore- 2024(84) G.S.T.L.421 - Madras High Court-

Input Tax Credit - Denial of - Burden of proof - Assessee was engaged in steel contracts - Intimation in Form GST DRC-01A was issued to assessee - Assessee replied by annexing several documents to establish genuineness of supplies received by assessee - Thereafter, a show cause notice was issued - Assessee asserted that he was unaware of such SCN because it was uploaded in "Additional Notices and Orders" tab on GST portal - Impugned order was issued thereafter - **HELD :** Assessee's reply was on record and in such reply, assessee refuted liability and enclosed copies of invoice, weightment slips, E-way bills, ledger copy and payment details relating to relevant supplies - In operative portion of impugned order, it was recorded that dealer had not furnished any documents and had failed to establish movement of goods - In view of documents annexed to assessee's reply to intimation, impugned conclusions were unsustainable - Assessee was permitted to file a reply to show cause notice - Respondent was directed to provide a reasonable opportunity to petitioner - Matter was to be remanded for fresh consideration [Section 16 read with Section 155 of the Central Goods and Services Tax Act, 2017 /Tamil Nadu Goods and Services Tax Act, 2017.

2] Realsteel Tyre Company (India) Vs. Principal Commissioner of GST - 2024(84) G.S.T.L.429- Delhi High Court-

Demand - Tax or ITC not involving fraud, etc. - Violation of natural justice - Show cause notice was issued proposing a demand - Impugned order stated that reply uploaded by taxpayer was not satisfactory - **HELD :** Reply filed by assessee was a detailed reply - Proper Officer had to at least consider reply on merits and then form an opinion whether reply was unsatisfactory - If Proper Officer was of view that reply was unsatisfactory and further details were required, same could have been specifically sought from assessee - However record did not reflect that any such opportunity was given to assessee to clarify its reply or furnish further documents/details - Matter was to be re-adjudication [Section 73 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017.

3] AAURUM Enterprises Vs. Union of India -2024(84)G.S.T.L.433 -Bombay High Court :-

Registration - Amendment of - Rejection of application - Petitioner-assessee filed an application praying for amendment of address of place of business - Said application was rejected - Assessee challenged same - **HELD :** No material was produced to show that assessee was heard before impugned order was passed - Second proviso to Section 28(2) of CGST Act, 2017 mandated that proper officer shall not reject application for amendment in registration

particulars without giving person an opportunity of being heard - That apart, impugned order also did not contain any reason in rejecting application of assessee for amendment in registration - Fresh order was to be passed [Section 28 of Central Goods and Services Tax Act, 2017/Maharashtra Goods and Services Tax Act, 2017.

4] Mastek Engineering Pvt.Ltd.Vs.Appellate Authority & Additional Commissioner, ST.-2024(84) G.S.T.L.484- Andhra Pradesh High Court-

Registration - Cancellation of - Appeals to appellate authority - Delay in filing appeal - Petitioner-assessee's registration was cancelled by order dated 13-6-2023 - Assessee filed an appeal under Section 107 of CGST Act, 2017 on 21-12-2023, and same was rejected on being barred by limitation - HELD : Appellate authority had no power to condone delay beyond condonable statutory period - It was stated that cause of delay in not preferring appeal within statutory period was due to assessee's ill health, difficulty in walking and treatment under doctor's supervision - In support, doctor's certificate was also filed - Though impugned order did not suffer from any illegality, but considering that there was sufficient cause for not filing appeal in time, in interest of justice, delay was to be condoned by imposing cost of Rs. 20 thousand, and Appellate Authority was to be directed to consider and decide appeal on merits [Section 29 read with Section 107 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017.

5] Vijaya Builders Vs.Ast.Comm.(ST),Coimbatore- 2024(85) G.S.T.L.26- Madras High Court-

Assessment - Scrutiny of return - Violation of natural justice - Proceedings were initiated pursuant to notice in Form ASMT-10 and assessment orders were passed - Case of assessee was that assessee was called upon to attend a personal hearing within three days and that such personal hearing was scheduled before date on which reply was to be given and that assessee was not heard before assessment order was issued - HELD : Stand of assessee that he was unaware, was not entirely convincing - However assessee was not granted sufficient time for personal hearing - Impugned orders were to be quashed and matter was to be remanded for reconsideration subject to assessee remitting 10 per cent of disputed tax demand [Section 61 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

6] Iron Style Vs.Additional Com.(Appeals) - 2024 (85)G.S.T.L.15-Allahabad High Court-

Registration - Cancellation of - Non-reasoned order - Assessee in instant case had challenged order-in-original cancelling assessee's registration and order passed in appeal under Section 107 of UPGST Act - It was submitted on behalf of assessee that, in first line, order stated that a reply was filed by assessee whereas reasons for cancelling registration was 'response not received' - It was therefore, submitted that order for cancellation of registration had been passed without any application of mind and orders impugned were liable to be set aside - HELD : Allahabad High Court in Surendra Bahadur Singh v. State of U.P. [2023 (77) GSTL 331 (All.) on same facts, had set aside original order being non-reasoned - Accordingly, impugned orders were to be quashed and set aside [Section 29 read with Section 107 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017.

7] Subhash Agrawalla Vs.State of Assam- 2024(85) G.S.T.L.30- Gauhati High Court-

State/WT GST Officers - Authorisation of - Parallel proceedings under SGST Act and CGST Act - Period 2017 to 2020 - A demand-cum-show cause notice under Section 73 of SGST Act was issued on 23-11-2022 to assessee asking to show cause as to why amount indicated therein shall not be demanded and recovered from assessee for financial year 2017-2018 - Thereafter, a demand-cum-show cause notice was also issued on 27-4-2023 under Section 73 of CGST Act asking assessee as to why amount indicated therein shall not be demanded and recovered from assessee for financial years 2017-2018 to 2019-2020 - Both notices had alleged that during said period, assessee availed and utilized Input Tax Credit which were inadmissible in terms of Section 16(4) of CGST Act/SGST Act - Pursuant to notice dated 27-4-2023, authority under CGST Act passed an order-in-original on 14-11-2023 - Subsequently authority under SGST Act also passed an order-in-original on 11-12-2023 - Assessee contended that two parallel proceedings in respect of same period was not permissible - HELD : Having regard to provisions contained in Section 6(2) of CGST/SGST Act, once a proceeding is initiated under either of above two acts, another proceeding for same period under other act was not to be initiated - Therefore, operation of order-in-original dated 11-12-2023 was to remain suspended till returnable date [Section 6 read with Sections 16 and 73 of Central Goods and Services Tax Act, 2017/Assam Goods and Services Tax Act, 2017.

8] Mondelez India Foods Pvt.Ltd.Vs.Deputy Commissioner(ST) - 2024(85) G.S.T.L.86- Telangana High Court-

Demand - Tax or ITC not involving fraud, etc. - Show cause notice, defects in - Show Cause Notice was challenged on ground that it lacked necessary information, source and materials - Assessee contended that there was no substantial material which would provide any hint as to which of those transactions were doubtful - Further, contention of assessee was that no product manufactured by them attracted GST rate of more than 18 per cent while it SCN, it was alleged that tax was not paid at rate of 28 per cent - HELD : Show Cause Notice lacked necessary information, source and materials - SCNs was issued in a mechanical manner without application of mind and without materials or basic scrutiny - SCNs being bereft of facts and materials, were not sustainable and hence was to be quashed [Section 73 of Central Goods and Services Tax Act, 2017/Telangana Goods and Services Tax Act, 2017.

9] Evergreen Construction Vs.Com.of Commercial Taxes,West Bengal - 2024985) G.S.T.L.160-Cuttack High Court-

Appellate Tribunal - Appeals to - Pre-deposit - Appeal challenges an interim order passed by court directing appellants to deposit 20% of the disputed remaining unpaid interest - Said Dispute arose from an adjudication order demanding interest due to belated filing of tax returns - Assessee contend that provision under Section 112, related to filing an appeal before appellate tribunal, does not require pre-deposit of 20% of disputed interest - **HELD:** Section 112(8)(b) clearly restricts pre-deposit amount to 20% of the remaining amount of tax in dispute and does not speak of interest - Where legislative intent was clear from language, court should give effect to it - Therefore portion of order passed by learned Single Bench directing assessee to pay 20% of remaining interest was to be set aside - Section 112 of Central Goods and Services Tax Act, 2017/ West Bengal Goods and Services Tax Act, 2017.

10] A.B.Traders Vs.Com.of Delhi G.S.T.- 2024(85) G.S.T.L.18- Delhi High Court-

Demands - Tax or ITC not involving frauds etc. - Adjudication - Reversal of ITC - A show cause notice was issued to petitioner-assessee proposing demand of Rs. 44.48 lakhs under heads i.e. under declaration of output tax; excess claim of ITC; ITC claimed from cancelled dealers, return defaulters and tax non-payers and scrutiny of ITC reversal - Assessee filed reply to said notice - Impugned order was passed recording that reply uploaded by assessee was insufficient and unsatisfactory - **HELD :** Impugned order did not specifically deal with reply of assessee to show cause notice and documents attached by assessee but referred only to certain judgments to hold that burden to prove admissibility of any input tax credit could not be shifted to tax authorities - Proper officer was required to examine documents submitted by assessee and then hold whether input tax credit was admissible or not - Proper officer had not stated why such transactions were not acceptable - Impugned order was to be set aside and matter was to be remanded to proper officer to re-adjudicate issues [Section 73 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017.

11] ADM Agro Industries Pvt.Ltd.Vs.Union of India- 2024(85) G.S.T.L.215- Gujarat High Court-

Refund of ITC - Inverted tax structure - Limitation period - Period July 2017 to November, 2020 - Petitioners-assessee availed input tax credit of GST paid on procurement of input services and capital goods supply - Case of assessee was that assessee had huge accumulation of input tax credit on account of inverted tax structure and that assessee made attempt of filing online refund application, but could not do so due to technical glitch and that assessee had filed manual refund application - Respondent authority submitted that at instant time, there was no technical glitch and refund application could be preferred online - Assessee submitted that now none of refund would be granted on ground of limitation - **HELD :** Respondent authority was to be directed to consider date of filing of manual refund application as relevant date for purpose of limitation [Section 54 of Central Goods and Services Tax Act, 2017/Gujarat Goods and Services Tax Act, 2017.

12] Theni Ply Woods Vs.Asst.Comm.(ST) , Theni- 2024(85) G.S.T.L.235-

Madras High Court-

Records - Rectification of mistakes - Impugned assessment order was passed fixing liability of assessee to tune of Rs. 3.16 crores under head of IGST along with interest and penalty - Case of assessee was that respondent had issued show cause notice pointing certain defects, for which, assessee had submitted reply - After scrutiny, respondent authority sustained three defects i.e. 'wrong claim of ITC', 'Discount received from seller' and 'Sundry creditors' - Major liability was fixed under head Sundry Creditors - Assessee contended that he had enclosed bank statement, however entire purchase value of sundry credit was treated as tax liability, instead of deducting ITC element involved on sundry creditors revenue submitted that petitioner was having a right of filing an application under Section 161 of CGST Act, 2017 of GST Act to correct error before concerned authority within 90 days - **HELD :** Petition of assessee was to be disposed of with a liberty to assessee to file application under Section 161 ibid along with required documents and same was to be considered in accordance with law [Section 16 read with Section 161 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

13] TVL Auto Hosting Vs.State Tax Officer (ST),Chennai- 2024(85) G.S.T.L.288 - Madras High Court-

Demands - Violation of Natural Justice - Petitioner-assessee was engaged in business of website design and related services - Assessee asserted lack of knowledge of proceedings originating in intimation because notices were uploaded in 'view additional notices and orders' tab of GST portal - Assessee became aware of proceedings upon receiving a phone call from office of revenue - **HELD :** Since documents on record indicated clearly that assessee was not heard before order was issued, it was just and appropriate that an opportunity be provided to assessee albeit by putting assessee on terms - Therefore, impugned order dated was to be quashed subject to condition that assessee remits 10 per cent of disputed tax demand within two weeks [Section 75 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

14] Cowtown Software Design Pvt.Ltd.Vs.Union of India-2024(85) G.S.T.L.298-Bihar High Court-

Demand - Tax or ITC not involving frauds etc. - Difference between GSTR 3B and GSTR 2A returns - Violation of natural justice - Period 2017-18 - Assessee received a show cause notice under Section 73 of GST Act to show cause as to why tax along with applicable interest and penalty, should not be recovered from assessee on ground that excess

ITC had been availed by assessee on basis of difference in ITC between GSTR 3B and GSTR 2A returns - Additionally, said document contained date and time of personal hearing, which skipped attention of assessee - Assessee made detailed submission denying allegations made in notice and specifically sought an opportunity of personal hearing - While filing aforesaid Form, automatic dialogue box in respect of "option of personal hearing" was marked "NO" - According to assessee it skipped mind of assessee to mark it "YES" - However, authority, without granting a personal hearing, issued impugned order confirming demand - **HELD** : Where a request is received in writing from a person chargeable with tax or penalty for a personal hearing, then an opportunity of personal hearing has to be given to that person - However, no such personal hearing had been given by authority to assessee before passing impugned order - This was in violation of principles of natural justice and ex facie contrary to provisions of Section 75(4) of CGST/MGST Act - Therefore, impugned order was to be set aside [Section 73 read with Section 75 of Central Goods and Services Tax Act, 2017/Maharashtra Goods and Services Tax Act, 2017].

15]Dott ServicesLtd.Vs.State of Telengana- 2024(85) G.S.T.L.314- Telengana High Court-

State/UT GST Officers - Authorisation of - Issue drawn by Central Authority - Period July 2017 to March, 2018 - Subsequent demand by state authority on same issue - Petitioner-assessee assailed demand order on ground that impugned action being bad for reason that for same cause of action, Central Authority had already initiated action and had passed order in original - It was further submitted that order passed by central authority was already under challenge before Instant court where an interim order was granted - **HELD** : Once proceedings had been already been drawn and finalized on same set of facts and issue, there could not be subsequent proceedings again drawn - Correspondence made by petitioner would show that petitioner had in fact intimated respondent authorities time and again - Further, Order-in-Original passed by respondent No. 4 - Central authority was endorsed to State agencies which was sufficient to draw an inference that State Authorities were aware or atleast were informed about proceedings drawn by respondent No. 4 - Impugned demand order passed by state authority was to be quashed [Section 6 of Central Goods and Services Tax Act, 2017/ Telangana Goods and Services Tax Act, 2017].

16]Sincon Infrastructure Pvt.Ltd.Vs.Union of India- 2024(85) G.S.T.L.391- Patna High Court-

Interest - Delayed payments of tax - Period 2017 to 2019 - Petitioner-assessee failed to pay interest on delayed payment through DRC-3 in financial year 2018-19 - Assessee also failed to pay interest on delayed cash payment through DRC-3 in financial year 2017-18 - Revenue issued a peremptory order of recovery demanding payment of interest - **HELD** : As per Section 50(1) of CGST Act, 2017 interest liability arises automatically on delayed filing of returns, irrespective of whether payment is made from Electronic Credit Ledger or Electronic Cash Ledger - It cannot be said that interest was payable only when there was a delayed furnishing of return and debit made from Electronic Cash Ledger was rejected - Interest liability is not dependent on availability of credit in Electronic Credit Ledger, as tax payment occurs only upon filing of returns - Therefore, instant writ petition was to be dismissed stating that a remand for said assessment periods would be unnecessary, as interest liability applies even if there was credit available in Electronic Credit Ledger [Section 50 of Central Goods and Services Tax Act, 2017/Bihar Goods and Services Tax Act, 2017].

17]Maxxcab Wires & cbles Pvt.Ltd.Vs.State of West Bengal- 2024(85) G.S.T.L.408- Calcutta High Court-

Penalty - Detention of goods and conveyance in transit - E-way bill and invoice - Expiry of - Wilful intention to evade tax - Petitioner-assessee had challenged order imposing penalty for transporting vehicle after expiry of e-way bill - There was a gap of about 18 hours between expiry of bill and interception, which was less than a day and assessee contended that there was no intention to evade tax on part of assessee and there was a genuine problem of break down of vehicle - **HELD** : Revenue could not make out any case against assessee that there was any deliberate or wilful intention of assessee to avoid and evade tax - Therefore, in view of facts and circumstances impugned order imposing penalty was to be set aside [Section 129 of Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017].

18] Pace Setters Business Solutions Pvt.Ltd.Vs.Union of India- 2024(85) G.S.T.L.420- Delhi High Court-

Levy and Collection of tax - Payment of tax under reverse charge method - Constitutional validity - Petitioner impugned Notification Nos. 30/2012-ST, 10/2014-ST and 10/2017-Integrated Tax(Rate), dated 28-6-2017 to extent that they provide for a reverse charge of GST on recovery agent services - Petitioner also impugned Section 17(3) of CGST Act to extent that it deems supply of recovery agent services as exempted supplies - According to petitioner, provisions of impugned notifications and Section 17(3) of CGST Act, were ultra vires CGST Act and IGST Act - Petitioner also challenged scheme of taxation as discriminatory - **HELD** : Sub-section (2) of Section 68 of Finance Act, includes a non obstante clause and overrides provisions of sub-section (1) of Section 68 of Finance Act - Thus, Central Government was duly empowered to notify certain taxable services in respect of which service tax would be paid wholly or partially by service recipient - Impugned notifications were issued by Central Government in exercise of its legislative powers delegated in terms of sub-section (2) of Section 68 of Finance Act - Similarly, sub-section (3) of Section 9 of CGST Act and sub-section (3) of Section 5 of IGST Act expressly provide that Central Government may on recommendations of GST Council, by notification specify categories of supply of goods or services or both, on which tax shall be paid on reverse charge basis - Article 14 of Constitution of India does not prohibit reasonable classification, which has rational nexus to its object - Therefore, there was no merit in challenge to impugned notifications or provisions of Section 17(3) of CGST Act [Section 9 read with Section 17 of Central Goods and Services Tax Act,

2017/Delhi Goods and Services Tax Act, 2017 - Section 5 of Integrated Goods and Services Tax Act, 2017 - Section 68 of Finance Act, 1994 - Article 14 of Constitution of India.

Input tax credit - Denial of - Services where GST is payable on reverse charge basis - Right to avail input tax credit is a statutory right and is available only if statute provides for same and that too to extent that statute permits - Denying input tax credit to service tax providers, who are not liable to pay tax on output services is founded on a rational basis, which has a clear nexus with classification - Central Government has in its wisdom selected certain services on which service tax/GST is payable on a reverse charge basis and contention that same amounts to hostile discrimination is plainly unmerited - Question whether any levy on person violates Article 14 of Constitution of India must necessarily be viewed bearing in mind wide amplitude of power to tax - An assessee, which is not liable to pay tax on output has no liability against which it can set off input tax credit - Thus, denial of input tax credit in respect of services where GST is payable on reverse charge basis, cannot by any stretch be held to be irrational and arbitrary [Section 16 read with Sections 9 and 11 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017 - Article 14 of Constitution of India.

19] Kohler India Corporation Pvt.Ltd.2024(85) G.S.T.L.468- Authority for Advance Ruling-

Recovery from employees - Canteen services - Contractual agreement between employer and employee - Applicant enters into a contract with a canteen service provider ('CSP') to provide canteen facilities to its workers at factory premises - Invoice is raised by CSP with applicable GST on basis of consumption by employees - A part of canteen charges is borne by applicant whereas remaining part borne by employees is collected from employee's salaries and paid to CSP by applicant - On application for advance ruling in respect of permanent employees: HELD : Applicant's has employed around 1500 employees who have been provided with canteen facility, having a demarcated area in factory premises, in terms of section 46 of Factories Act, 1948 - As per CBI&C Circular No. 172/04/2022-GST, perquisites provided by 'employer' to 'employee' in terms of contractual agreement entered into between employer and employee, are not be subjected to GST when same are provided in terms of contract - Therefore, deduction made from employees availing food in factory is not be considered as a 'supply' and thus no GST is be applicable on employee's portion [Section 9 of Central Goods and Services Tax Act, 2017/Gujarat Goods and Services Tax Act, 2017/Section 46 of Factories Act, 1948.

Input tax credit - Apportionment of credit and blocked credits - Canteen facility to employees - Applicant mandated by section 46 of Factories Act, 1948 entered into a contract with a 'CSP' to provide canteen facilities to its workers at factory premises - A part of canteen charges is borne by applicant whereas remaining part by employees - CBI&C Circular no. 172/4/2022-GST clarified that, effective from 1-2-2019, based on recommendation of GST council in its 28th meeting, proviso after sub-clause (iii) of clause (b) of Section 17(5) of CGST Act is applicable to whole of clause 17(5)(b) - Therefore, ITC would be available to appellant in respect of food and beverages as far as provision of canteen service for employees is concerned - However, ITC charged by CSP will be restricted to extent of cost borne by appellant only [Section 17 of Central Goods and Services Tax Act, 2017/ Gujarat Goods and Services Tax Act, 2017/46 of Factories Act, 1948.

Compliance Calendar for the month of July 2024

Due Date of Compliance	Compliance
10.07.2024	Monthly GSTR 7 for the month of June 2024 (TDS deductor)
	Monthly GSTR 8 for the month of June 2024 (TCS collector)
11.07.2024	Monthly GSTR 1 for the month of June 2024 (Regular Monthly Taxpayer)
13.07.2024	GSTR-1 for taxpayers under the QRMP scheme (June 24)
13.07.2024	GSTR-5 for the month of June 2024 (Non-Resident Taxpayer)
13.07.2024	GSTR-6 for the month of June 2024 (Input Service Distributor)
18.07.2024	Self-Assessment GST Payment for composition dealer
20.07.2024	Monthly GSTR 3B for the month of June 2024 (Regular Monthly Taxpayer)
	Monthly GSTR 5A for the month of June 2024 (OIDAR service provider)
22.07.2024	GSTR-3B of quarterly filers for April to June 24 (Category I)
24.07.2024	GSTR-3B of quarterly filers for April to June 24 (Category II)

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