

GST LAW COMMUNIQUE

Latest updates for the month of November 2024

A] Important Notifications (Rate)

No new rate Notifications are issued during the month

B] Important Notifications

1] **Extension of due date for filing FORM GSTR-3B:** The due date for filing FORM GSTR-3B for the month of October 2024 is extended till 21st November, 2024 for the persons registered in the state of Maharashtra and Jharkhand.

[Notification No 26/2024-Central Tax dt. 18th November, 2024]

2] **Common adjudicating authority for Show cause notices issued by DGGI:** Powers are delegated to the principal Commissioner or Commissioner of Central Tax of certain commissionarate to be exercisable throughout the territory of India with respect to notices issued by the officer of DGGI.

[Notification No 27/2024-Central Tax dt. 25th November, 2024]

3] **Extension of due date for filing FORM GSTR-3B:** The due date for filing FORM GSTR-3B for the month of October 2024 is extended till 30th November, 2024 for the persons registered in the state of Manipur.

[Notification No 29/2024-Central Tax dt. 27th November, 2024]

C] Important Circulars

No new circulars are issued during the month

D] Important Instructions

No new instructions are issued during the month

E] Important Case Laws

1] **Rinshad Maliyam Karim Vs. State Tax Officer of State GST Dept -2024(89)G.S.T.L.385- Kerala High Court-**

Input tax credit - Denial of - Mismatch between returns - GSTR-1 and GSTR-3B - Case of assessee was that owing to mismatch between GSTR-1 and GSTR-3B certain ITC to which assessee was entitled had not been granted and huge liability had been imposed on assessee together with interest and penalty - Assessee preferred application for rectification of assessment order and sought a direction to respondent vide instant petition to consider rectification application of assessee, HELD : Authorities should consider rectification application filed by assessee and pass appropriate orders in accordance with law, after affording an opportunity of hearing to assessee within a period of 3 months [Section 16 read with Section 161 of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017.

Incorporating

- 1] Important Notifications
- 2] Important Circulars/Clarifications
- 3] Important Case laws, AAR, AAAR
- 4] Compliance calendar for the month of November 24



2]TVL Senthil Hardwares Vs. State TAX Officer, Thanjavur- -2024(89) G.S.T.L.418- Madras High Court-

Demand - Tax or ITC not involving fraud, etc. - Show cause notice, defects in - Violation of natural justice - Period 2018-19 - Assessee was issued a notice in DRC-01 followed by remainder for personal hearing - By impugned order demand was confirmed against assessee along with interest and penalty - It was a case of assessee that detailed reply submitted by assessee was accepted by respondent, however, in the impugned order, certain amount was demanded as tax due from assessee which was not part of notice issued in DRC-01 - **HELD** : Impugned order suffered from gross violation of principles of natural justice as assessee was not put to notice on defect as mentioned in impugned order - Impugned order was to be quashed and the matter was to be remitted to pass fresh order [Section 73 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017].

3]Shree Shakti Minerals Vs. Commissioner, CGST, Jaipur-2024(89) G.S.T.L.452- Rajasthan High Court-

Appeals to Appellate Authority - Limitation period - Provisions under Section 107 of CGST Act, cannot be frustrated on mere technicalities - A right to appeal as provided under the statute must be decided on merits irrespective of some laches or delay on the part of assessee - Limitations of Section 107 ibid stipulating that appellate authority cannot condone delay except circumstances envisaged under said section are not applied in a writ proceeding - Powers under Article 226 of Constitution of India are founded on justice, equity and a good conscience and are exercised for the public good - Appeal of assessee was dismissed as time-barred by Joint Commissioner - Instant writ petition was filed before High Court - **HELD** : Writ petition was to be entertained and order passed by Joint Commissioner was to be quashed - Appeal was to be restored to its original file [Section 107 of Central Goods and Services Tax Act, 2017/Rajasthan Goods and Services Tax Act, 2017].

4]Chief Commissioner of CGST Vs. Safari Retreats Pvt. Ltd.- 2024(90) G.S.T.L.3-Hon.Supreme Court-

Input tax credit - Apportionment of credit and blocked credit - Constitutional validity of clauses (c) and (d) of Section 17 of CGST Act, 2017 - Reading down - Right of ITC is a creation of a statute, Legislature can always carve out exceptions to entitlement of ITC - No one can claim ITC as a matter of right unless it is expressly provided in statute - Immovable property and immovable goods for purpose of GST constitute a class by themselves - Clauses (c) and (d) of Section 17(5) ibid apply only to this class of cases - Clauses (c) and (d) of Section 17(5) ibid are constitutionally valid - Plain interpretation of these clauses does not lead to any ambiguity; hence, question of reading down these provisions does not arise [Section 17 of Central Goods and Services Tax Act, 2017].

Input tax credit - Apportionment of credit and blocked credit - Building vis-a-vis plant - Question whether a mall, warehouse or any building other than a hotel or a cinema theatre can be classified as a plant within meaning of expression 'plant or machinery' used in Section 17(5)(d) of CGST Act, 2017 is a factual question which has to be determined keeping in mind business of registered person and role that building plays in said business - If construction of a building was essential for carrying out activity of supplying services, building could be held to be a plant and then, it is taken out of exception carved out by clause (d) of Section 17(5) to sub-section (1) of Section 16 ibid - Hence, to decide whether a building is a 'plant' for purposes of clause (d) of Section 17(5) ibid functionality test will have to be applied in each case, on facts [Section 17 of Central Goods and Services Tax Act, 2017].

5] Rimzim Ispat Ltd. Vs. State of U.P.-2024(90) G.S.T.L.52- Allahabad High Court-

Penalty - Detention of goods and conveyances in transit - E-way bill - Typographical error - Goods and vehicle were detained on the ground that taxable amount was incorrectly mentioned in e-way bill - However, taxable amount mentioned in e-way bill was corrected later - **HELD** : All documents accompanying goods indicated value of goods - There was no intention to evade tax and error was only typographical error - Penalty imposed was not justified as there was no intention to evade tax - Impugned order was to be quashed and set aside - Goods and vehicle that were detained were to be released [Section 129 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].

6] Samira Enterprises Vs. State of U.P.- 2024(90) G.S.T.L.55- Allahabad High Court-

Penalty - Detention of goods and conveyance - E-way bill - Goods were detained on ground that they were not purchased from bonafide dealer - Appellate order was passed imposing tax and penalty - Petitioner contended that proper documents were accompanying goods in question - HELD : Goods in question were accompanied with documents i.e., tax invoice, GR and E-way bill - In E-way bill, dispatch place was mentioned as Ghaziabad, UP - Petitioner submitted reply stating that purchase was made from Ghaziabad dealer and due entries were made in its purchase account - This fact was not denied at any stage - Merely because E-way bill was issued by Ghaziabad dealer on purchase made by petitioner, this would not mean that goods were purchased from non-bonafide dealer - State failed to bring on record any material to show that goods were purchased from non-bonafide dealer - No discrepancy with regard to quality, quantity or specification was found - There was no mention at any stage that there was intention to evade tax - Therefore, impugned order could not be sustained - Proper documents were accompanying goods, therefore, proceedings under section 129 of CGST Act, 2017 could not be initiated [Section 129 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].

7]Kedia Enterprises Vs. State of Bihar – 2024(90) G.S.T.L.129-Patna High Court-

Penalty - Detention of goods and vehicle - Limitation period - Vehicle carrying goods was detained on 30-3-2024 - Notice was served on 4-4-2024 - Order was passed on 18-4-2024 - Petitioner contended that order was not passed within 7 days from service of notice - HELD : Authority had granted entire limitation period for filing reply - Petitioner had filed reply on last date - Authority ought to have passed an order on that date itself after considering reply - Authority having delayed matter, mandate of Section 129(3) of CGST Act, 2017 was not followed - Impugned order was not sustainable - Authority was directed to refund amount paid [Section 129 of Central Goods and Services Tax Act, 2017/Bihar Goods and Services Tax Act, 2017].

8] A.R.Enterprises Vs. Additional Commissioner of CGST, Appeal- 2024(90) G.S.T.L.188- Allahabad High Court :-

Appeals to Appellate Authority - Limitation - Condonation of delay - Appeal was filed beyond the period of three months from date of receipt of order - Appellate authority rejected the appeal on the ground that he had no authority to condone delay beyond the period of 30 days - Delay was caused due to financial condition and hardship of petitioner in arranging counsel and also due to illness of Managing Director - HELD : Impugned order was to be set aside and the matter was to be remanded to the appellate authority to decide the appeal on merits [Section 107 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].

9]Mandy Enterprises Vs. Deputy Commissioner, CGST Division-2024(90) G.S.T.L.191- Delhi High Court-

Refund - Withholding of - Department had not issued refund directed to be issued by Appellate Authority - HELD : Department could not withhold refund which had been directed to be issued by Appellate Authority - Order in the appeal was required to be implemented unless same was otherwise stayed by a superior forum - In instant case, department had not preferred any appeal or any proceedings to challenge order of Appellate Authority - It was impermissible for department to simply ignore said order [Section 54 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017 - Article 226 of Constitution of India].

10]Umair Traders Vs. State of U.P.- 2024(90) G.S.T.L.193- Allahabad High Court-

Appeals to Appellate Authority - Limitation - Condonation of delay - Appeal was filed beyond period of four months from date of passing of order - HELD : In Yadav Steels Having Office [(2024) 19 Centax 435 (All.)] it was observed that significance of limitations in taxing statutes cannot be overstated - These statutes govern collection of taxes which are vital for functioning of a state or country - Limitation provisions ensure timely resolution of disputes and promote efficiency and fairness in tax administration - Section 107 of CGST/UPGST Act, 2017 prescribes specific limitation period within which appeals against certain decisions must be filed - This limitation period is integral to functioning of appellate mechanism under GST Act and reflects legislative intent to expedite resolution of tax disputes - Taxing statutes like GST Act embody a comprehensive framework with specific limitation provisions tailored to expedite resolution of tax-related matters - Section 107 ibid operates as a complete code in itself, explicitly delineating limitation periods for filing appeals and implicitly excluding application of general

limitation provisions such as Section 5 of Limitation Act, 1963 - Delay in filing appeal cannot be condoned beyond prescribed period of limitation in Act - Thus, there being no merit in instant writ, same was to be dismissed [Section [107](#) of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017.

11] New Shanti Restaurant Vs. State of U.P.- 2024(90)G.S.T.L.229- Allahabad High Court-

Appeals to Appellate Authority - Rejection of - Reason to be recorded - Appeals preferred against the order passed by the proper officer were rejected by Appellate Authority without assigning any reason - **HELD** : It is settled law that reason is the heartbeat of every conclusion - An order without valid reasons cannot be sustained - To give reasons is rule of natural justice - One of most important aspect for necessitating to record reason is that it substitutes subjectivity with objectivity - It is well settled that not only judicial order, but also administrative order must be supported by reasons recording in it - Impugned orders were to be quashed [Section 107 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017.

12] Mahesh Arts Vs. Deputy Commissioner (ST),Chennai-2024(90) G.S.T.L.319- Madras High Court-

Appeals to Appellate Authority - Limitation period - Condonation of delay - A notice was issued to assessee alleging that assessee had wrongly availed input tax credit in GSTR 3B on purchase of motor vehicles as reflected from statement in GSTR-2A - Thereafter, proposal was confirmed levying tax and penalty - Assessee filed an appeal against said order with a delay of 2 months and 27 days and appeal was rejected - Assessee submitted that impugned order was passed without affording an opportunity of hearing to assessee to substantiate their claim - Assessee further submitted that assessee was not aware of notice issued through GST portal, thus they were not able to file any objections in time - **HELD** : In interest of justice, delay in filing appeal was to be condoned and appellate authority was to be directed to take up appeal without raising any issue relating to limitation [Section 107 read with Section 16, of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

13] Patel Beej Bhandar Vs. State of U.P.- 2024(90) G.S.T.L.332- Allahabad High Court-

Appeal to Appellate authority - Certified copy of order - Furnishing of - Appeal of petitioner-assessee was rejected on the ground that same was barred by limitation, as a self-attested copy of the order was not made available within the time fixed as per Rule 108 of UPGST/CGST Rule, 2017 - **HELD** : In Visible Alpha Solutions India (P.) Ltd. (2024) 19 Centax 517 (All.) When an appeal has been filed within the time frame prescribed, that is, three months, the authority should not dismiss the appeal on grounds that a certified copy of the decision was not filed within time - Thus, following said decision impugned order rejecting assessee's appeal could not be sustained in eyes of law and same was to be quashed [Section 107 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017 - Rule 108 of Central Goods and Services Tax Rules, 2017/Uttar Pradesh Goods and Services Tax Rules, 2017.

F] GST portal updates

1] Time Limit for Reporting e-Invoice on the IRP Portal: From 1st April 2025, taxpayers with an Aggregate Annual Turnover (AATO) of ₹10 crores and above must report e-Invoices within 30 days on the Invoice Registration Portal (IRP). This restriction applies to Invoices, Credit Notes, and Debit Notes. For example, an invoice dated 1st April 2025 cannot be reported after 30th April 2025.

Taxpayers with AATO below ₹10 crores are not subject to this restriction. The measure provides sufficient time for compliance before implementation.

2] Advisory for Form GST DRC-03A: A new form, GST DRC-03A, has been introduced (Notification No. 12/2024, dated 10th July 2024) to adjust payments made via DRC-03 against demand orders. Previously, some taxpayers used DRC-03 instead of the 'Payment towards demand' facility, causing the demand to remain open in the liability register.

Now, taxpayers can use DRC-03A to link DRC-03 payments (marked as 'Voluntary' or 'Others') with specific demand orders by entering the ARN and demand order number on the GST portal. The system will auto-populate relevant details, and once adjusted, the liability ledger will reflect the updated demand status.

For further guidance, taxpayers can refer to the detailed advisory, FAQs, or raise a grievance under 'DRC-03A-Filing' on the GST Grievance Redressal Portal..

3] Advisory related to 'Other Territory' applications: As per Notification No. 2/2017-Central Tax and related trade notices, applicants selecting "Other Territory" in the State/UT field while applying for GST registration will be administered under either Mumbai South or Chennai North Commissionerate.

- Western Coast (Gujarat, Maharashtra, Goa, etc.) → Mumbai South Commissionerate
 - Division: Division 1
 - Range: Allocated based on the first letter of the applicant's name (A-Z)
- Eastern Coast (West Bengal, Odisha, Andhra Pradesh, etc.) → Chennai North Commissionerate
 - Division & Range: Selectable from dropdown options

Applicants should refer to the official trade notice for further details and select the appropriate division and range accordingly.

4] Advisory for waiver scheme under Section 128A: Invoice Management System (IMS) is made available to taxpayers from Today, 14th Oct, 2024. The new system shall facilitate taxpayers in matching their records/invoices vis a vis issued by their suppliers for availing the correct Input Tax Credit (ITC). Taxpayers can make use of this system to take action on the invoices reflecting on IMS from 14th Oct, 2024. The first GSTR-2B would be generated for the return period Oct'24 on 14th November, 2024 considering action taken on Invoice Management System. It may be noted that it is not mandatory to take action on invoices in IMS dashboard for GSTR-2B generation.

5] Advisory regarding IMS during initial phase of its implementation: The Invoice Management System (IMS), introduced on the GST Portal from October 2024, allows recipients to accept, reject, or keep pending invoices reported by suppliers in GSTR-1/1A/IFF. Based on these actions, GSTR-2B for the recipient is generated on the 14th of the following month, and GSTR-3B is auto-populated with ITC and tax liability.

Recipients can modify their IMS actions (accept/reject/pending) and recompute GSTR-2B before filing GSTR-3B to ensure correct ITC availability. However, if incorrect ITC or tax liability is auto-populated due to errors, taxpayers can edit these values in GSTR-3B before filing to reflect the actual position based on their records.

6] Advisory on IMS on Supplier View: The Invoice Management System (IMS) has been available on the GST Portal since 14th October 2024, allowing recipients to accept, reject, or keep invoices pending from suppliers' GSTR-1/1A/IFF. The first GSTR-2B based on IMS actions will be generated on 14th November 2024 for the October 2024 period.

A Supplier View feature has also been introduced, enabling suppliers to see the actions taken by recipients on their invoices, helping avoid errors.

Certain invoices are excluded from IMS actions but are visible in Supplier View as 'No Action Taken', including:

- ITC-ineligible invoices (due to POS rules or Section 16(4) of CGST Act)
- Reverse Charge Mechanism (RCM) supplies

Recipients can modify IMS actions until filing GSTR-3B. If changes are made after GSTR-2B generation, they must click the "Recompute GSTR-2B" button to update their ITC details accordingly.

7] Important advisory on GSTR 2B and IMS: Some taxpayers have reported that GSTR-2B for October 2024 was not generated on 14th November 2024. As per the IMS design, GSTR-2B will not be generated in the following cases:

1. QRMP Scheme Taxpayers – Quarterly filers will not receive GSTR-2B for the first two months of a quarter (e.g., October & November 2024 for the Oct-Dec 2024 quarter). They will get GSTR-2B only for December 2024.

2. Pending GSTR-3B Filings – If a taxpayer has not filed GSTR-3B for the previous period, GSTR-2B will not be generated. Once the pending GSTR-3B is filed, the taxpayer can manually generate GSTR-2B by clicking "Compute GSTR-2B (OCT 2024)" on the IMS dashboard..

8] Advisory for Reporting TDS Deducted by scrap Dealers in October 2024: As per Notification No. 25/2024-Central Tax, effective 10th October 2024, registered recipients of metal scrap (Chapters 72 to 81 of the Customs Tariff Act) must deduct TDS under Section 51 of the CGST Act, 2017.

Some taxpayers who registered in November 2024 are unable to file TDS for October 2024 due to the GST system's design, which does not allow return filing for periods before the registration month. To resolve this, such taxpayers should report the total TDS deducted for 10th October - 30th November 2024 in their GSTR-7 for November 2024.

9] Authorised e-Invoice Verification Apps: GSTN has released a consolidated document listing authorized B2B e-Invoice verification apps for taxpayers. This document ensures access to the latest approved apps for verification.

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Editorial Team

CMA R.K. Deodhar

CMA Dipak N Joshi

"Matruchaya Banglow", Plot No 16 and 17, Trambakeshwar Road, Satya Colony, behind Vikas Colony, Nashik, Maharashtra 422007

Contact: +91 98220 49980, +91 99221 59279

Email: info@edugst.com