

POSTAL REGN. NO. MP/IDC/412/2021-2023



**35th YEAR OF PUBLICATION**

# Tax Law Decisions

**A UNIQUE AND BEST MONTHLY MAGAZINE ON  
GST, VALUE ADDED TAX AND ALLIED LAWS  
IN TWO VOLUMES PER YEAR**

**FOUNDER EDITOR : DINESH GANGRADE**

**EDITOR : NILESH GANGRADE**

**Volume 66**

**Part - 1**

**January 2021**

Associate : R.S. Arora Ret. Dy. CCT and Tax Consultant

## RENEWAL SUBSCRIPTION - 2021

We hope you are happy with our regular despatches, timely reporting and presentation. Your subscription for the journal "Tax Law Decisions" end with the Part No. 6 of Volume 65 i.e. December 2020. The Magazine **Tax Law Decisions** entered into **35th year** of its publication from January, 2021. The Subscription Renewal **Rs. 2700/-** may be send by DD or MO or Cheque payable to **TAX LAW DECISIONS** at Indore at the following address

## TAX LAW DECISIONS

'Tax Law House' F-312, Sewa Sardar Nagar,  
INDORE-452001 (M.P.)

**BANK ACCOUNT DETAILS FOR DEPOSITING RENEWAL  
SUBSCRIPTION**

**BANK A/C NAME : TAX LAW DECISIONS**

**CURRENT A/c NO.: 05250200000193**

**IFSC CODE : UCBA0000525**

**UCO BANK, GRAM PIPLIYAHANA (0525)**

**PAYTM MOBILE NO.: 8989935075**

**GOOGLE PAY / PHONEPE : 9329584011**

**Visit us on : [www.dineshgangrade.com](http://www.dineshgangrade.com)**

**RENEWAL SUBSCRIPTION 2021 Rs. 2700/-**

**1**

# आशा

अलमारी के लॉकर से  
बैंक की पासबुक से  
अपने भव्य मकानों से  
फैलती महामारी से  
सबसे पूछा  
असली सम्पत्ति क्या है ?  
सोचता था सब कहेंगे  
सामर्थ्य ही सम्पत्ति है  
परन्तु  
उत्तर कहीं और से आया  
तुम जीत की आशा से भरे हो  
या हार के ख्याल से डरे हो  
मूल्यवान नहीं है सामर्थ्य  
सामर्थ्य भले ही थोड़ा हो  
मन आशा से भरा हो  
तो ही सफलता निकट आती है  
आशा ही असल सम्पत्ति बन जाती है ।

प्रस्तुति - **राघवेंद्र दुबे**  
से.नि. अपर आयुक्त वाणिज्यिक कर एवं  
से.नि. लेखापाल सदस्य, म.प्र. वाणिज्यिक कर अपील बोर्ड





Volume 66

Part – 1

January 2021

**Tax Law Decisions**

**CONTENTS**

**STATUTES**

- |  |    |
|--|----|
| * Central Goods and Services Tax (Amendment) Rules, 2021<br>[No. 01/2021-Central Tax]<br><i>G.S.R. 2(E). Dated 1st January, 2021</i>   | 12 |
| * Central Goods and Services Tax (Fourteenth<br>Amendment) Rules, 2020 [corrigendum duly incorporated]<br>[No. 94/2020-Central Tax]<br><i>G.S.R. 786(E). New Delhi, Dated 22nd December, 2020</i>  | 03 |
| * Corrigendum to No. 94/2020-Central Tax,<br>dated 22-12-2020<br><br><i>G.S.R. 801(E). Dated 28th December, 2020</i>   | 11 |
| * Notification u/s 1(2) of Finance Act, 2020 bringing<br>into force Sections 119, 120, 121, 122, 123, 124,<br>126, 127 and 131 of Finance Act, 2020 (12 of 2020)<br>w.e.f. 1-1-2021<br>[No. 92/2020-Central Tax]<br><i>S.O. 4643(E). Dated 22nd December, 2020</i> | 02 |
| * Gist of GST Madhya Pradesh Notifications - 2020  | 18 |
| * Gist of GST Chhattisgarh Notifications - 2020  | 38 |

★★

**ARTICLE**

- |   |                  |    |
|---|------------------|----|
| * फर्जी बिल जारी कर क्लेम की जा रही<br>इनपुट टैक्स क्रेडिट रोकने हेतु जीएसटी<br>के नियम सख्त किये गये | - आर.एस. गोयल    | 29 |
| * क्यू.आर.एम.पी. स्कीम  | - आर.एस. गोयल    | 33 |
| * साक्षात्कार सीए. बी.एल. बंसल सा., इंदौर   | - नीलेश गंगराड़े | 36 |

★★

**SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019**

- \* Sabka Vishwas (Legacy Dispute Resolution) (14-11-2020) 14  
Scheme, 2019 (Removal of Difficulties) order  
2020 dated 13th Nov., 2020- procedure for  
filing of declaration by the eligible declarant in the  
UT of J & K and UT of Ladakh and its verification  
thereafter, etc. **Circular No. 1075/01/2020-CX**
- \* Sabka Vishwas (Legacy Dispute Resolution) (13-11-2020) 16  
Scheme, 2019 (Removal of Difficulties) Order, 2020

☆☆

**CIRCULAR ISSUED BY CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**

- \* Waiver from recording of UIN on the invoices (15-12-2020) 13  
for the months of April 2020 to March 2021  
**Circular No. 144/14/2020-GST**

☆☆

**NOTIFICATIONS -**

**CENTRAL GOODS AND SERVICES TAX ACT, 2017**

- \* Notification u/s **44(1)** of CGST Act, 2017 11  
extending the time limit for furnishing of the  
annual return specified under section 44 of CGST  
Act, 2017 for the financial year 2019-20 till 28-2-2021  
[No. 95/2020-Central Tax]  
**G.S.R. 809(E). Dated 30th December, 2020**
- \* Notification u/s **128** r/w Section 148 of CGST Act, 02  
2017 amending No. 73/2017-Central Tax dated  
29-12-2017 waiving of late fee for FORM GSTR-4  
filing in UT of Ladakh for Financial year 2019-20  
[No. 93/2020-Central Tax]  
**G.S.R. 785(E). Dated 22nd December, 2020**
- \* Notification u/s **168A** of CGST Act, 2017 amending 01  
No. 35/2020-Central Tax dated 3-4-2020 extending  
the due dates for compliances and actions in respect  
of anti-profiteering measures till 31-3-2021

2021) CONTENTS 3

[No. 91/2020-Central Tax]

*G.S.R. 759(E). Dated 14th December, 2020*

☆☆

**CHRONOLOGICAL LIST OF NOTIFICATIONS -**

**CENTRAL GOODS AND SERVICES TAX ACT, 2017**

* No. 91/2020-Central Tax	Dated 14th December, 2020	01
* No 92/2020-Central Tax	Dated 22nd December, 2020	02
* No. 93/2020-Central Tax	Dated 22nd December, 2020	02
* No. 94/2020-Central Tax	Dated 22nd December, 2020	03
* Corrigendum to No. 94/2020-Central Tax, dated 22-12-2020	Dated 28th December, 2020	11
* No. 95/2020-Central Tax	Dated 30th December, 2020	11
* No. 01/2021-Central Tax	Dated 1st January, 2021	12

☆☆☆☆

**LIST OF CASES REPORTED**

* Andhra Pradesh State Road Transport Corporation	(AAR-AP)	72
* Arihant Traders Vs. Managing Director	(MP)	62
* Boxster Impex Vs. Union of India	(Bom)	41
* Boxster Impex Vs. Union of India	(Bom)	41
* CMC Vellore Association	(AAR-AP)	68
* DEC Infrastructure and Projects (I)	(AAR-AP)	68
* Deccan Tobacco Co.	(AAR-AP)	64
* DKV Enterprises Pvt. Ltd.	(AAR-AP)	69
* Geep Industries (India) Vs. Union of India	(Gau)	51
* Goldie Glass Industries Vs. State of M.P.	(MP)	12

<b>4</b>	<b>Tax Law Decisions</b>	<b>(Vol. 66)</b>
* GVS Projects	(AAR-AP)	65
* Halliburton Offshore Services Inc. (Drill Bits)	(AAR-AP)	70
* Heritage Lifestyles & Developers Vs. UOI	(Bom)	33
* Jaitron Communication Vs. State of U.P.	(All)	57
* Kalagarla Suryanarayana Son	(AAR-AP)	67
* Kothari Associates Vs. State of U.P.	(All)	17
* KPC Projects Limited	(AAR-AP)	64
* Loafers Corner Cafe Vs. Union of India	(Ker)	28
* Macro Media Digital Imaging Pvt. Ltd.	(AAR-AP)	66
* Malayalam Motors Vs. The Asstt. STO	(Ker)	30
* Master Minds	(AAR-AP)	71
* Ocean Sparkle Ltd.	(AAR-AP)	69
* Polo International Vs. State of U.P.	(All)	10
* Pradeep Chand Maloo Vs. CCT, M.P.	(MP)	15
* Pratik Jain Vs. State of M.P.	(MP)	1
* Rameez Enterprises Vs. Managing Director	(MP)	32
* Shilpa Medicare Ltd.	(AAR-AP)	69
* Sree & Co.	(AAR-AP)	66
* Sri Satya Sai Water Supply Project Board	(AAR-AP)	67
* Sri Venkata Vijaya Durga Traders	(AAR-AP)	67
* The Indian Hum Pipe Co. Vs. State of M.P.	(MP)	3
* The Indian Hum Pipe Co. Vs. State of M.P.	(MP)	6
* Varahamurti Flexirub Ind. Vs. State of Kerala	(Ker)	55

**SUBJECT INDEX**

- \* **AAR-AP - Availability of credit in special circumstances** - Section 18 of CGST Act, 2017 - In case of sale or transfer, the transferor can transfer unutilised input tax credit to the transferee, which is lying in his electronic credit ledger, by filing Form GST ITC-02. **Shilpa Medicare Ltd. [24-2-2020] (AAR-AP)** **69**
- \* **AAR-AP - Construction services** - Composite Supply of Works Contract - Government Entity - For accommodating Small and Medium Enterprises (SMEs) and Startups - Classifiable under SAC heading No. 9954 and the applicable rate of tax is 18%. **KPC Projects Limited [25-11-2019] (AAR-AP)** **64**
- \* **AAR-AP - Drill bits** - Import of drill bits for supply to ONGC at its location in India on consumption basis. **Halliburton Offshore Services Inc. (Drill Bits) [25-2-2020] (AAR-AP)** **70**
- \* **AAR-AP - Education services** - Services of supply of service of education as per the curriculum prescribed by the statutory authorities/ government to the students - Only a facilitation / improvisation of the preparation for the exams - Not eligible for the exemption. **Master Minds [5-3-2020] (AAR-AP)** **71**
- \* **AAR-AP - Flex** - The supply of print on flex is classified under Goods falls under HSN 4911 and attracts tax rate of 12%. **Sree & Co. [9-12-2019] (AAR-AP)** **66**
- \* **AAR-AP - Government Entity** - Construction services - APIIC is a “Government Entity” for the purpose of GST matters - Classifiable under SAC Heading No. 9954 under construction services and the applicable rate of tax is 18%. **DEC Infrastructure and Projects (I) [17-2-2020] (AAR-AP)** **68**
- \* **AAR-AP - Governmental Authority** - Sri Satya Sai Water Supply Project Board does not qualify for Governmental Authority. **Sri Satya Sai Water Supply Project Board [17-1-2020] (AAR-AP)** **67**
- \* **AAR-AP - Marketing and consultancy services** - Intermediary services are provided to the recipient located outside India and the Interstate provisions as contained under Section 7 (5) (c) shall be applicable and hence IGST is payable under such transaction. **DKV Enterprises Pvt. Ltd. [24-2-2020] (AAR-AP)** **69**
- \* **AAR-AP - Medicines supplied to In-patients through pharmacy** - Not liable to tax, being a part of the composite supply of health care services.

<b>6</b>	<b>Tax Law Decisions</b>	<b>(Vol. 66)</b>
	<b>CMC Vellore Association [17-2-2020] (AAR-AP)</b>	<b>68</b>
*	<b>AAR-AP - Poly Vinyl Chloride banners</b> - The supply of printed trade advertisement material is classified under Goods falls under HSN 4911 and attracts tax rate of 12%. <b>Macro Media Digital Imaging Pvt. Ltd. [10-12-2019] (AAR-AP)</b>	<b>66</b>
*	<b>AAR-AP - Rental services</b> - The rate of tax on the rental services where the cost of fuel is included in the consideration charged from the service recipient is 5% / 12% subject to satisfying the conditions. <b>Andhra Pradesh State Road Transport Corporation [5-5-2020] (AAR-AP)</b>	<b>72</b>
*	<b>AAR-AP - Tamarind Seed</b> - Seeds of Tamarind trees are nothing but seeds of forest trees which Tamarind seed is classified under HSN code 1207 and attracts tax rate of 5%. <b>Sri Venkata Vijaya Durga Traders (AAR-AP); Kalagarla Suryanarayana Son [10-12-2019] (AAR-AP)</b>	<b>67</b>
*	<b>AAR-AP - Tobacco leaves</b> - GST Rate of tax on tobacco leaves under different conditions. <b>Deccan Tobacco Co.[24-10-2019] (AAR-AP)</b>	<b>64</b>
*	<b>AAR-AP - Tug Jupiter</b> - Tug is not a machinery, equipment or tools independently but considered to be a vessel - Classifiable under SI.No. 10 of Heading 9966 attracting tax rate of 5%. <b>Ocean Sparkle Ltd. [24-2-2020] (AAR-AP)</b>	<b>69</b>
*	<b>AAR-AP - Works contract</b> - Supply and erection of Indoor Sub stations and their connected lines. <b>GVS Projects [31-10-2019] (AAR-AP)</b>	<b>65</b>
*	<b>Appeals to Appellate Tribunal</b> - Section 112 of CGST Act, 2017 - The High Court disposed of the petition by providing that the petitioner can invoke the remedy of filing appeal before the Tribunal in terms of the provisions of the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019. <b>Polo International Vs. State of U.P. (All)</b>	<b>10</b>
*	<b>Attachment of Bank Account</b> - The Bank attached the Account in view of the orders of Departmental Authorities - The High Court remanded the matter to the departmental authority for deciding the matter on merits and till such exercise is completed the Bank Account shall not be attached nor shall any recovery be made therefrom and he shall be permitted to operate the same. <b>Pradeep Chand Maloo Vs. CCT, M.P. (MP)</b>	<b>15</b>
*	<b>Composition levy - Section 10 of CGST Act, 2017</b> - The delayed processing of the application submitted by the petitioner cannot be a reason to deprive the petitioner of the statutory benefit that he had claimed through the application. <b>Loafers Corner Cafe Vs. Union of India (Ker)</b>	<b>28</b>



\* **Demand and recovery** - An order in writing for provisional attachment of a bank account is a must before such an account can be attached - Section 110(5) of the Customs Act, 1962. **Boxster Impex Vs. UOI (Bom)** 41

\* **Detention, seizure and release of goods and conveyances in transit** - Section 129(3) of the CGST Act, 2017 - The High Court directed the respondents to release the goods and the vehicle on the petitioner furnishing a Bank guarantee for the amount demanded and the petitioner afforded an opportunity of hearing, before passing the final order in Form GST MOV-9. **Varahamurti Flexirub Ind. Vs. State of Kerala (Ker)** 55

\* **E-way bill - Penalty** - Detention, seizure and release of goods and conveyances in transit - Section 129 of CGST Act, 2017 - E-way bill with the vehicle did not contain correct description with regard to movement of goods - The proper Officer in terms of the scheme was expected to examine the specific defence set up by the petitioner and consequently determine the liability of tax payable by the petitioner - It is only after determining the liability to pay tax that the liability to pay penalty could be determined. **Jaitron Communication Vs. State of U.P. (All)** 57

\* **Form GSTR-1 - Furnishing details of outward supplies** - Section 37 of CGST Act, 2017 - Payment of the admitted amount shown in the return - The High Court directed the respondent to accept the belated return without insisting on payment of the admitted tax declared therein - The High Court also permitted to discharge the tax liability, inclusive of any interest and late fee thereon, in equal successive monthly instalments. **Malayalam Motors Vs. The Asstt. STO (Ker)** 30

\* **Pending adjudication** - As there is an interim order of Appellate Board in favour of the petitioners operating since the date of the filing of the petition, the present petitions are disposed of with a direction to the effect that the respondent/Federation shall not make any steps towards encashment of the bank guarantee. **Arihant Traders Vs. Managing Director (MP)** 62

\* **Pending adjudication** - The High Court observed that no fruitful purpose would be served by entertaining the present petitions as the matter is already pending adjudication before the Supreme Court. **Rameez Enterprises Vs. Managing Director (MP)** 32

\* **Refund - IGST/GST** - Extreme measures such as placing of alert on IEC and withholding of IGST/GST dues can not be continued for an indefinite period. The same cannot be continued adinfinitum merely on the basis of suspicion, howsoever strong such suspicion may be. **Boxster Impex Vs. Union of India (Bom)** 41

\* **Revision suo-motu - Section 47(2) of M.P. VAT Act, 2002** - Power of revision by Commissioner - The order passed by the Dy. Commissioner of Commercial Tax (Appeal) is final and is not amenable to suo-motu revisional powers conferred by Section 47 of the Act. **Goldie Glass Industries Vs. State of M.P. (MP)** 12

\* **Transitional credit - Input tax credit** - The finding of the ITGRC would in the face of the admission by the Respondents to the amount of credit, would be a mere technicality which cannot come in the way of substantial justice. **Heritage Lifestyles & Developers Vs. UOI (Bom)** 33

\* **Transitional provisions - Input tax credit** - The High Court directed the GST Council will to look into the grievance of the petitioner, so that the petitioner may file TRAN-1 form either electronically or manually, as the case may be - Petitioner is not deprived of the ITC, which is due to him. **Geep Industries (India) Vs. Union of India (Gau)** 51

\* **Writ petition - Appeals to Appellate Authority** - Section 107 of CGST Act, 2017 - Remedy of appeal u/s 107 not availed within the statutory limit - The High Court in view of Polo International Vs. State of U.P. (2021) 66 TLD 10 disposed of the petition by providing that the petitioner can invoke the remedy of filing appeal before the Tribunal in terms of the provisions of the CGST (Ninth Removal of Difficulties) Order, 2019. **Kothari Associates Vs. State of U.P. (All)** 17

\* **Writ petition - Appeals to Appellate Authority** - Section 107 of M.P. GST Act, 2017 - The M.P. High Court dismissed the petition directly filed against the order appealable u/s 107. **Pratik Jain Vs. State of M.P. (MP)** 1

\* **Writ petition - Assessment order** - The M.P. High Court in view of the exceptional facts and circumstances entertained the petition against the order of assessment directly and remanded the matter back to the Assessing Authority. **The Indian Hum Pipe Co. Vs. State of M.P. (MP)** 3

\* **Writ petition - Assessment order** - The M.P. High Court in view of its own order and looking to the exceptional facts and circumstances entertained the petition against the order of assessment directly and remanded the matter back to the Assessing Authority. **The Indian Hum Pipe Co. Vs. State of M.P. (MP)** 6

# Volume 66 2021

# TAX LAW DECISIONS

**MAGAZINE**

**Articles Queries & Replies Statutes  
Rules and Notifications Circulars &  
Clarifications Delegation orders News  
& Views Readers Writ Book Reveiws.**

- (1)** Notification u/s 168A of CGST Act, 2017 amending No. 35/2020-Central Tax dated 3-4-2020 extending the due dates for compliances and actions in respect of anti-profiteering measures till 31-3-2021

**No. 91/2020-Central Tax**

**G.S.R. 759(E). New Delhi, Dated 14th December, 2020** - In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017), 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), the Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the 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, namely:-

- In the said notification, in the first paragraph, in the proviso to clause (i),
- (i) for the words, figures and letters “29th day of November, 2020”, the words, figures and letters 30th day of March, 2021 shall be substituted.
  - (ii) for the words, figures and letters “30th day of November, 2020”, the words, figures and letters 31st day of March, 2021 shall be substituted.

2. This notification shall be deemed to have come into force with effect from 1st day of December, 2020.

**Note:** The principal notification No. 35/2020-Central Tax, dated the 3rd April, 2020 was 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 was last amended by notification No. 65/2020 – Central Tax, dated the 1st September, 2020, published in the Gazette of India, Extraordinary vide number G.S.R. 542(E), dated the 1st September, 2020.

*[Published in the Gazette of India dated 14-12-2020]*



**(2) Notification u/s 1(2) of Finance Act, 2020 bringing into force Sections 119, 120, 121, 122, 123, 124, 126, 127 and 131 of Finance Act, 2020 (12 of 2020) w.e.f. 1-1-2021**

**No 92/2020-Central Tax**

**S.O. 4643(E). New Delhi, Dated 22nd December, 2020** - In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2020 (12 of 2020) (hereinafter referred to as the said Act), the Central Government hereby appoints the 1st day of January, 2021, as the date on which the provisions of sections 119, 120, 121, 122, 123, 124, 126, 127 and 131 of the said Act shall come into force.

*[Published in the Gazette of India dated 22-12-2020]*



**(3) Notification u/s 128 r/w Section 148 of CGST Act, 2017 amending No. 73/2017-Central Tax dated 29-12-2017 waiving of late fee for FORM GSTR-4 filing in UT of Ladakh for Financial year 2019-20**

**No. 93/2020-Central Tax**

**G.S.R. 785(E). New Delhi, Dated 22nd December, 2020** - In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with section 148 of the said Act, the Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 73/2017– Central Tax, dated the

2021)                      **No. 94/2020-Central Tax dated 22-12-2020**                      **3**

29th December, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1600(E), dated the 29th December, 2017, namely :-

In the said notification, after the third proviso, the following proviso shall be inserted, namely:-

“Provided also that the late fee payable for delay in furnishing of **FORM GSTR-4** for the Financial Year 2019-20 under section 47 of the said Act, from the 1st day of November, 2020 till the 31st day of December, 2020 shall stand waived for the registered person whose principal place of business is in the Union Territory of Ladakh.”.

**Note :** The principal notification No. 73/2017-Central Tax, dated 29th December, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 1600(E), dated the 29th December, 2017 and was last amended vide notification number 67/2020–Central Tax, dated the 21st September, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 572(E), dated the 21st September, 2020.

[Published in the Gazette of India dated 22-12-2020]

□

**(4) Central Goods and Services Tax (Fourteenth Amendment) Rules, 2020 [corrigendum duly incorporated]**

**No. 94/2020-Central Tax**

**G.S.R. 786(E). New Delhi, Dated 22nd December, 2020** - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

- 1. Short title and commencement.** - (1) These rules may be called the Central Goods and Services Tax (Fourteenth Amendment) Rules, 2020.  
(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.
- 2.** In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 8, for sub-rule (4A), with effect from a date to be notified, the following sub-rule shall be substituted, namely:-



“(4A) Every application made under rule (4) shall be followed by-

- (a) biometric-based Aadhaar authentication and taking photograph, unless exempted under sub-section (6D) of section 25, if he has opted for authentication of Aadhaar number; or
- (b) taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of section 25, if he has opted not to get Aadhaar authentication done,

of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in **FORM GST REG-01** at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.”.

3. In the said rules, in rule 9,-

- (a) in sub-rule (1), -
  - (i) after the words “applicant within a period of”, for the word “three”, the word “seven” shall be substituted;
  - (ii) for the [provisos], the following proviso shall be substituted, namely:-

“Provided that where-

    - (a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or
    - (b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the registration shall be granted within thirty days of submission of application, after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.”;

- (b) in sub-rule (2), -
  - (i) for the word “three”, the word “seven” shall be substituted;

2021)

No. 94/2020-Central Tax dated 22-12-2020

5

(ii) for the proviso, the following proviso shall be substituted, namely:-

“Provided that where-

- (a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or
- (b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the notice in **FORM GST REG-03** may be issued not later than thirty days from the date of submission of the application.”;

(c) for sub-rule (5), the following sub-rule shall be substituted, namely:-

“(5) If the proper officer fails to take any action,-

- (a) within a period of seven working days from the date of submission of the application in cases where the person is not covered under proviso to sub-rule (1); or
- (b) within a period of thirty days from the date of submission of the application in cases where a person is covered under proviso to sub-rule (1); or
- (c) within a period of seven working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2),

the application for grant of registration shall be deemed to have been approved.”.

4. In the said rules, in rule 21,-

- (a) in clause (b), after the words “goods or services”, the words “or both” shall be inserted;
- (b) after clause (d), the following clauses shall be inserted, namely:-
  - “(e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or
  - (f) furnishes the details of outward supplies in **FORM GSTR-1** under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said

tax periods; or

(g) violates the provision of rule 86B.”.

5. In the said rules, in rule 21A,-

(a) in sub-rule (2), the words “,after affording the said person a reasonable opportunity of being heard,” shall be omitted;

(b) after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(2A) Where, a comparison of the returns furnished by a registered person under section 39 with

(a) the details of outward supplies furnished in **FORM GSTR-1**; or

(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their **FORM GSTR-1**,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in **FORM GST REG-31**, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.”;

(c) in sub-rule (3), after the words, brackets and figure “or sub-rule (2)”, the words, brackets, figure and letter “or sub-rule (2A)” shall be inserted;

(d) after sub-rule (3), the following sub-rule shall be inserted, namely:-

“(3A) A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund under section 54, during the period of suspension of his registration.”;

(e) in sub-rule (4), -

(i) after the words, brackets and figure “or sub-rule (2)”, the words, brackets, figure and letter “or sub-rule (2A)” shall be inserted;

(ii) the following proviso shall be inserted, namely:-

“Provided that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.”.

6. In the said rules, in rule 22,-

- (a) in sub-rule (3), after the words, brackets and figure “the show cause issued under sub-rule (1)”, the words, brackets, figures and letters “or under sub-rule (2A) of rule 21A” shall be inserted;
- (b) in sub-rule (4), after the words, brackets and figure “reply furnished under sub-rule (2)”, the words, brackets, figures and letters “or in response to the notice issued under sub-rule (2A) of rule 21A” shall be inserted.

7. In the said rules, in rule 36, in sub-rule (4), with effect from the 1st day of January, 2021,-

- (a) for the word “uploaded”, at both the places where it occurs, the word “furnished” shall be substituted;
- (b) after the words, brackets and figures “by the suppliers under sub-section (1) of section 37”, at both the places where they occur, the words, letters and figure “in **FORM GSTR-1** or using the invoice furnishing facility” shall be inserted;
- (c) for the figures and words “10 per cent.”, the figure and words “5 per cent.” shall be substituted.

8. In the said rules, in rule 59, after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(5) Notwithstanding anything contained in this rule,-

- (a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for preceding two months;
- (b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period;

- (c) a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period.”.

9. In the said rules, after rule 86A, with effect from the 1st day of January, 2021, the following rule shall be inserted, namely:-

**“86B. Restrictions on use of amount available in electronic credit ledger.**-Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where-

- (a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961 (43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or
- (b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or
- (c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of subsection (3) of section 54; or
- (d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or



2021) No. 94/2020-Central Tax dated 22-12-2020

9

- (e) the registered person is-
- (i) Government Department; or
  - (ii) a Public Sector Undertaking; or
  - (iii) a local authority; or
  - (iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.”.

**10.** In the said rules, in rule 138, in sub-rule (10), with effect from the 1st day of January, 2021,-

- (i) in the Table, against serial number 1, in column 2, for the figures and letters “100 km.”, the figures and letters “200 km.” shall be substituted;
- (ii) in the Table, against serial number 2, in column 2, for the figures and letters “100 km.”, the figures and letters “200 km.” shall be substituted.

**11.** In the said rules, in rule 138E,-

- (a) in clause (b), for the words “two months”, the words “two tax periods” shall be substituted;
- (b) after clause (c), the following clause shall be inserted, namely:-  
“(d) being a person, whose registration has been suspended under the provisions of sub-rule (1) or sub-rule (2) or sub-rule (2A) of rule 21A.”.

**12.** In the said rules, after **FORM GST REG-30**, the following **FORM** shall be inserted, namely-

**“FORM GST REG - 31**

*[See rule 21A]*

Reference No.

Date: <DD><MM><YYYY>

To,

GSTIN

Name:

Address:

**Intimation for suspension and notice for cancellation of registration**

In a comparison of the following, namely,

- (i) returns furnished by you under section 39 of the Central Goods and Services Tax Act, 2017;
- (ii) outwards supplies details furnished by you in **FORM GSTR-1**;
- (iii) auto-generated details of your inwards supplies for the period \_\_\_\_\_ to \_\_\_\_\_;
- (iv) ..... (specify)

and other available information, the following discrepancies/ anomalies have been revealed:

- Observation 1
- Observation 2
- Observation 3

*(details to be filled based on the criteria relevant for the taxpayer).*

2. These discrepancies/anomalies prima facie indicate contravention of the provisions of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.

3. Considering that the above discrepancies/anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of sub-rule (2A) of rule 21 A.

4. You are requested to submit a reply to the jurisdictional tax officer within [thirty days] from the receipt of this notice, providing explanation to the above stated discrepancy/ anomaly. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.

5. The suspension of registration shall be lifted on satisfaction of the jurisdictional officer with the reply along with documents furnished by you, and any further verification as jurisdictional officer considers necessary.

6. You may please note that your registration may be cancelled in case you fail to furnish a reply within the prescribed period or do not furnish a satisfactory reply.

Name:

Designation:

2021)                      **No. 95/2020-Central Tax dated 30-12-2020**                      11

**NB :** This is a system generated notice and does not require signature by the issuing authority.”.

**Note :** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* notification No. 3/2017-Central Tax, dated the 19th June, 2017, published *vide* number G.S.R. 610 (E), dated the 19th June, 2017 and last amended *vide* notification No. 82/2020-Central Tax, dated the 10th November, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 698(E), dated the 10th November, 2020.

*[Published in the Gazette of India dated 22-12-2020]*



**(5)                      Corrigendum to No. 94/2020-Central Tax, dated 22-12-2020**

**CORRIGENDUM**

**G.S.R. 801(E). New Delhi, Dated 28th December, 2020** - In the notification of the Government of India, Ministry of Finance, Department of Revenue, No. 94/2020-Central Tax, dated 22nd December, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 786(E), dated the 22nd December, 2020,:

- at page 8, in line 31, for the words “for the proviso” read “for the provisos”;
- at page 12, in line 12, for the words “seven working days” read “thirty days”.

*[Published in the Gazette of India dated 28-12-2020]*



**(6)                      Notification u/s 44(1) of CGST Act, 2017 extending the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2019-20 till 28-2-2021**

**No. 95/2020-Central Tax**

**G.S.R. 809(E). New Delhi, Dated 30th December, 2020** - In exercise of the powers conferred by sub-section (1) of section 44 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with rule 80 of the Central

Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing of the annual return specified under section 44 of the said Act read with rule 80 of the said rules, electronically through the common portal, for the financial year 2019-20 till 28-2-2021.

[Published in the Gazette of India dated 30-12-2020]



**(7) Central Goods and Services Tax (Amendment) Rules, 2021**  
**No. 01/2021-Central Tax**

**G.S.R. 2(E). New Delhi, Dated 1st January, 2021** - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: -

**1. Short title and commencement.** - (1) These rules may be called the Central Goods and Services Tax (Amendment) Rules, 2021.

(2) These rules shall come into force on the date of their publication in the Official Gazette.

**2.** In the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), in rule 59, after sub-rule (5), the following sub-rule shall be inserted namely:-

“(6) Notwithstanding anything contained in this rule, -

(a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for preceding two months;

(b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period;

(c) a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in

**2021) Circular No. 144/14/2020-GST dated 15-12-2020 13**

excess of ninety-nine per cent. of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period.”.

**Note:** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* notification No. 3/2017-Central Tax, dated the 19th June, 2017, published *vide* number G.S.R. 610 (E), dated the 19th June, 2017 and last amended *vide* notification No. 94/2020-Central Tax, dated the 22nd December, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 786(E), dated the 22nd December, 2020.

*[Published in the Gazette of India dated 1-1-2021]*



**(8) Waiver from recording of UIN on the invoices for the months of April 2020 to March 2021**

**Circular No. 144/14/2020-GST**

**F.No. CBEC- 349/48/2017-GST (Part I)**

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

New Delhi, dated the 15th December, 2020

**Subject:** Waiver from recording of UIN on the invoices for the months of April 2020 to March 2021-regarding

Vide Circular No. 63/37/2018-GST dated 14th September, 2018 & corrigendum to the said circular dated 6th September 2019, waiver from recording of UIN on the invoices issued by retailers/other suppliers were given to UIN entities till March, 2020.

**2.** It has been brought to the notice of the Board that the issue of non-recording of UINs has continued even after 31st March, 2020. Therefore, it has been decided to give waiver from recording of UIN on the invoices issued by the retailers/suppliers, pertaining to the refund claims from **April 2020 to March 2021**, subject to the condition that the copies of such invoices are attested by the authorized representative of the UIN entity and the same is submitted to the jurisdictional officer.



3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)

Commissioner (GST)



**(9) Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (Removal of Difficulties) order 2020 dated 13th Nov., 2020- procedure for filing of declaration by the eligible declarant in the UT of J & K and UT of Ladakh and its verification thereafter, etc.**

**Circular No. 1075/01/2020-CX**

**F.No. 267/78/2019/CX-8-Pt. III**

Government of India, Ministry of Finance, Department of Revenue  
Central Board of Indirect Taxes and Customs

Dated, the 14th November, 2020.

**Subject:** Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (Removal of Difficulties) order 2020 dated 13th Nov., 2020- procedure for filing of declaration by the eligible declarant in the UT of J & K and UT of Ladakh and its verification thereafter, etc. - reg.

I am directed to draw your attention to the **Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (Removal of Difficulties) Order, 2020, dated 13th November, 2020** (hereinafter to be referred as the said ROD Order) published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), vide G.S.R 715(E) dated 13th Nov., 2020 (copy enclosed).

2. To obviate the hardship faced by the taxpayers in the Union Territory of Jammu and Kashmir and Union Territory of Ladakh, in filing declaration under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, during the original period of its operation, due to disruption in the internet services, the Central Government has decided to extend the date of filing of the

**2021) Circular No. 1075/01/2020-CX dated 14-11-2020 15**

declaration, by the eligible declarants, in respect of cases eligible under the said Scheme, as on the 15th January, 2020, till 31st December, 2020.

**3.** The following timelines have been provided by the said ROD order for the filing and verification of declaration thereafter, etc. for the taxpayers in these Union Territories.

- a. The last date for filing of the declaration referred to in sub-rule (1) of rule 3 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 shall be on or before the 31st December, 2020;
- b. The last date of issuance of statement under sub-section (1) and (4) of section 127 of the Finance (No.2) Act, 2019, shall be on or before the 31st January, 2021;
- c. The last date of issuance of estimate of amount payable under sub-section (2) of section 127 of the Finance (No.2) Act, 2019, shall be on or before the 15th January, 2021;
- d. The last date for payment of dues by declarant under sub-section (5) of section 127 of the Finance (No.2) Act, 2019, shall be on or before the 28th February, 2021.

**4.** The filling of the declaration and its verifications thereafter, etc. shall be done as per the provisions of the Chapter V of the Finance (No. 2) Act, 2019 (23 of 2019) and the rules made thereunder and in accordance with the timelines provided by the said ROD order.

**5.** Trade, industry and field formations may be suitably informed.

**6.** Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Mazid Khan)

Under Secretary to Govt. of India



**(10) Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019  
(Removal of Difficulties) Order, 2020**

**ORDER**

**No 1/2020-SVLDRS, 2019**

**G.S.R. 715(E). New Delhi, Dated 13th November, 2020 -**  
WHEREAS, sub-section(1) of section 127 of the Finance (No.2) Act, 2019 (23 of 2019) (hereafter in this Order referred to as the said Act) provides that where the amount estimated to be payable by the declarant, as estimated by the designated committee, equals the amount declared by the declarant, then, the designated committee shall issue in electronic form, a statement, indicating the amount payable by the declarant, on or before the 31st day of May, 2020;

AND WHEREAS, sub-section(2) of section 127 of the said Act provides that where the amount estimated to be payable by the declarant, as estimated by the designated committee, exceeds the amount declared by the declarant, then, the designated committee shall issue in electronic form, an estimate of the amount payable by the declarant on or before the 1st day of May, 2020;

AND WHEREAS, sub-section(4) of section 127 of the said Act provides that after hearing the declarant, a statement in electronic form indicating the amount payable by the declarant, shall be issued on or before the 31st day of May, 2020;

AND WHEREAS, sub-section (5) of section 127 of the said Act provides that the declarant shall pay electronically through internet banking, the amount payable as indicated in the statement issued by the designated committee, on or before the 30th day of June, 2020;

AND WHEREAS, the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) came into force with effect from the 31st October, 2019 and for considerable period during which the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 was open for filing of declaration from 1st September, 2019 till 15th January, 2020, the internet services were disrupted in the Union Territory of Jammu & Kashmir and Union Territory of Ladakh, and these extraordinary circumstances created an impediment in the imple-

**2021) Sabka Vishwas (Removal of Difficulties) Order, 2020 17**

mentation of the provisions of the said Scheme in so far as the taxpayers in these Union Territories could not avail the benefits of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019.

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of the section 134 of the Finance (No.2) Act, 2019 (23 of 2019), the Central Government, hereby makes the following Order, to remove the difficulties, namely:-

1. **Short title.** - This Order may be called the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (Removal of Difficulties) Order, 2020.
2. It is provided that notwithstanding anything contained in the provisions of sub-section (1), (2), (4) & (5) of section 127 of the said Act and the rules, namely the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019, made under the said Act, for the persons in the Union Territory of Jammu and Kashmir and Union Territory of Ladakh, in respect of cases eligible under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, as on the 15th January, 2020, following timelines are hereby provided:-
  - a. The last date for filing of the declaration referred to in sub-rule(1) of rule 3 of the said rules shall be on or before the 31st December, 2020;
  - b. The last date of issuance of statement under sub-section (1) and (4) of section 127 of the said Act shall be on or before the 31st January, 2021;
  - c. The last date of issuance of estimate of amount payable under sub-section (2) of section 127 of the said Act shall be on or before the 15th January, 2021;
  - d. The last date for payment of dues by declarant under sub-section (5) of section 127 of the said Act shall be on or before the 28th February, 2021.

*[Published in the Gazette of India dated 13-11-2020]*



## **(11) Gist of GST Madhya Pradesh Notifications - 2020**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars</b>
<b>(01)</b> 14-01-20	GST	Notification u/s 3 of M.P. Goods and Services Tax Act, 2017 appointing Special Commissioner (Appeals), Additional Commissioner (Appeals) and Joint Commissioner (Appeals) of State Tax
<b>(02)</b> 06-02-20	GST	Corrigendum to Notification No. (37) dated 17-5-2019 relating to notifying State tax on intra-state supply of services
<b>(03)</b>	-	-
<b>Act No. 1</b> 06-02-20	GST	<b>Act No. 1 of 20</b> M.P. Goods and Services Tax Act (Second Amendment) Act, 2019
<b>(04)</b> 06-02-20	GST	M.P. Goods and Services Tax (Eighth Removal of Difficulties) Order, 2019
<b>(05)</b> 14-02-20	GST	Notification u/s 9(1) and 15(5) of M.P. GST Act, 2017 amending Notification No. (42) dated 29-6-2017 relating to notifying State tax on supply of goods w.e.f. 1-10-2019
<b>(06)</b> 14-02-20	GST	Notification u/s 164 of M.P. Goods and Services Tax Act, 2017 - M.P. Goods and Services Tax Rules, 2017 - Amendment in Rules w.e.f. 13-12-2019
<b>(07)</b> 14-02-20	GST	Notification u/s 146 of M.P. Goods and Services Tax Act, 2017 r/w Rule 48(4) notifying Common Goods and Services Tax Electronic Portal for the purpose of preparation of the invoice in terms of Rule 48(4) w.e.f. 1-1-2020
<b>(08)</b> 14-02-20	GST	Madhya Pradesh Goods and Services Tax Rules, 2017 - Proviso inserted after fifth proviso to Rule 46 relating to Quick Response (QR) Code on invoices vide Notification No. (60) dated 7-8-2019 appointing 1-4-2020 the effective date of such provision



**2021) Gist of GST Madhya Pradesh Notifications - 2020 19**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars</b>
<b>(09)</b> 14-02-20	GST	Notification u/r 46 of M.P. GST Rules, 2017 notifying the class of registered person required to issue invoice having QR Code w.e.f. 1-4-2020
<b>(10)</b> 18-02-20	GST	Notification u/s 123(2) of M.P. Goods and Services Tax Act, 2017 amending Notification No. (101) dated 15-9-2017 relating to constitution of the State Level Screening Committee
<b>(11)</b> 03-03-20	GST	Notification u/s 4 of M.P. Goods and Services Tax Act, 2017 r/w clause (1)(a) and 2(a) of Rule 109A I pursuance of Notification No. (01) dated 14-1-20 appointing Shri Neelam Singh Maravi, Special Commissioner of State Tax as Appellate Authority for the specified area
<b>(12)</b> 29-02-20	VAT	Notification u/s 20(8) of M.P. Vat Act, 2002 amending Notification No. (64) dated 27-9-2019 and (91) dated 29-11-2019 extending the date of completion of assessments and reassessment proceedings for the period 1-4-2017 to 30-6-2017 and for all remaining cases which has not completed upto 29-2-20 upto <b>30-6-2020</b>
<b>(13)</b> 20-03-20	GST	Notification u/r 48(4) of M.P. GST Rules, 2017 notifying the class of registered person required to issue e-invoice w.e.f. 1-4-20
<b>(14)</b> 20-03-20	GST	Notification u/s 9(3)(4), 11(1), 15(5) and 148 of M.P. GST Act, 2017 amending Notification No. (53) dated 30-6-2017 exempting certain services as recommended by GST Council in its 38th meeting held on 18-12-2019 w.e.f 1-1-2020
<b>(15)</b> 20-03-20	GST	Notification u/s 128 of M.P. GST Act, 2017 waiving of late fees for non- filing of FORM GSTR-1 from July, 2017 to November, 2019 effective from 19-12-2019

Noti. No.	Act	Particulars
(16) 20-03-20	GST	Notification u/s 9(3) of M.P. GST Act, 2017 amending Notification No. (59) dated 30-6-2019 notifying certain services under reverse charge mechanism (RCM) as recommended by GST Council in its 38th meeting held on 18-12-2019
(17) 20-03-20	GST	Madhya Pradesh Goods and Services Tax (Amendment) Rules, 2017 effective from 26-12-2019
(18) 20-03-20	GST	Madhya Pradesh Goods and Services Tax (Tenth Removal of Difficulties) Order, 2019
(19) 20-03-20	GST	Notification u/s 128 of M.P. GST Act, 2017 extending the onetime amnesty scheme to file all FORM GSTR-1 from July 2017 to November, 2019 till 17th January, 2020
(20) 20-03-20	GST	Notification u/s 9(1) and 15(5) of M.P. GST Act, 2017 amending Notification No. (42) dated 29-6-2017 so as to notify rate of GST on supply of lottery w.e.f. 1-3-2020
(21) 04-05-20	GST	Notification u/s 5 r/w Section 2(100) of M.P. GST Act, 2017 the Commissioner of State Tax authorises Revisional Authority under section 108
(22) 30-03-20	PT	Notification u/s 6 of M.P. Professional Tax Act, 1995 exempting the private sector employers from paying penalty under Section 13 if tax is paid on or before 30-4-20 and penalty u/s 9(3) if return is filed on or before 5-5-2020
(23) 04-05-20	GST	Notification u/s 148 of M.P. GST Act, 2017 amending Notification No. (53) dated 29-6-2019 waiving off the requirement for furnishing FORM GSTR-1 for 2019-20 for taxpayers who could not opt for availing the option of special composition scheme under Notification No. (53) dated 29-6-2019

**2021) Gist of GST Madhya Pradesh Notifications - 2020**

**21**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars</b>
<b>(24)</b> 04-05-20	GST	Notification u/s 44(1) r/w Rule 80 of M.P. GST Act, 2017 extending the time limit for furnishing of the annual return for the financial year 2018-2019 till 30-6-20 effective from 23-3-20
<b>(25)</b> 04-05-20	GST	Notification u/s 25(6D) of M.P. GST Act, 2017 specifying the class of persons who shall be exempted from aadhar authentication w.e.f. 1-4-20
<b>(26)</b> 04-05-20	GST	Notification u/s 128 of M.P. GST Act, 2017 providing relief by conditional waiver of late fee for delay in furnishing returns in <b>FORM GSTR-3B</b> for tax periods of February, 20 to April, 20
<b>(27)</b> 04-05-20	GST	Notification u/s 148 of M.P. GST Act, 2017 prescribing the due date for furnishing FORM GSTR-1 for the quarters April, 20 to June, 20 upto 31-7-20 and July, 20 to September, 20 upto 31-10-20 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding FY or the current FY
<b>(28)</b> 31-08-20	GST	Notification u/s 164 of M.P. GST Act, 2017 - M.P. GST Rules, 2017 - Amendment
<b>(29)</b> 04-05-20	GST	Notification u/r 48(4) of M.P. GST Rules, 2017 superceeding Notification No. (13) dated 20-3-20 notifying the class of registered person required to issue e-invoice w.e.f. 1-10-2020
<b>(30)</b> 04-05-20	GST	Notification u/s 148 of M.P. GST Act, 2017 extending due date of furnishing FORM GST CMP-08 for the quarter ending March, 20 till 7-7-20 and filing FORM GSTR-4 for FY 2020-21 till 15-7-2020
<b>(31)</b> 04-05-20	GST	Notification u/r 46 (sixth proviso) of M.P. GST Rules, 2017 superceeding Notification No. (09) dated 14-2-2020 exempting certain class of registered persons capturing dynamic QR code and the date for implementation of QR Code to be extended to 1-10-20

Noti. No.	Act	Particulars
(32) 04-05-20	GST	Notification u/s 9(1)(3)(4), 11(1), 15(5) and 148 of M.P. GST Act, 2017 amending Notification No. (41) dated 29-6-2017 inserting item relating to aircraft w.e.f 1-4-2020
(33) 04-05-20	GST	Notification u/s 25(6C) of M.P. GST Act, 2017 specifying class of persons, other than individuals who shall undergo authentication, of Aadhaar number in order to be eligible for registration w.e.f. 1-4-20
(34) 10-07-20	GST	M.P. Goods and Services Tax Rules, 2017 - Amending Rules in order to allow opting Composition Scheme for FY 2020-21 till 30-6-2020 and to allow cumulative application of condition in rule 36(4) w.e.f. 3-4-2020
(35) 04-05-20	GST	Notification u/s 50(1) and 148 of M.P. GST Act, 2017 amending Notification No. (54) dated 30-6-2017 providing relief by conditional lowering of interest rate for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 20 to April, 20
(36) 04-05-20	GST	Notification u/s 128 of M.P. GST Act, 2017 providing relief by conditional waiver of late fee for delay in furnishing outward statement in <b>FORM GSTR-1</b> for tax periods of February, 20 to April, 20
(37) 04-05-20	GST	Notification u/s 25(6B) of M.P. GST Act, 2017 notifying the date from which an individual shall undergo authentication of Aadhaar number in order to be eligible for registration w.e.f. 1-4-20
(38) 04-05-20	GST	Notification u/s 9(1) and 15(5) of M.P. GST Act, 2017 amending Notification No. (42) dated 29-6-2017 relating to notifying State tax on supply of goods w.e.f. 1-4-2020
(39) 04-05-20	GST	Notification u/s 148 of M.P. GST Act, 2017 providing special procedure for corporate debtors undergoing the

**2021) Gist of GST Madhya Pradesh Notifications - 2020 23**

corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 w.e.f. 23-3-20

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars</b>
<b>(40)</b> 28-05-20	GST	Notification u/s 164 (9)(c) and Rule 25 of M.P. Goods and Services Tax Act, 2017 giving effect to amendment in Rules made by Notification No. (60) dated 7-8-2019 w.e.f. 28-4-2020
<b>(41)</b> 06-12-20	VAT	Notification u/s 9-AA of M.P. Vat Act, 2002 amending Notification No. (55) dated 5-7-2019 relating to enhancement of Additional Tax on Petrol and High Speed Diesel effective from 13-6-2020
<b>(42)</b> 30-06-20	VAT	Notification under Section 20 (8) of M.P. Vat Act, 2002 amending Notification No. (64) dated 27-9-2019 and (91) dated 29-11-2019 extending the date of completion of assessments and reassessment proceedings for the period 1-4-2017 to 30-6-2017 and for all remaining cases which has not completed upto 30-6-2019 upto <b>31-12-2020</b>
<b>(43)</b> 20-07-20	GST	Notification u/s 44(1) of M.P. GST Act, 2017 amending Noti. No. ( 24) dt. 4-5-2020 extending the due date for furnishing of Annual Return FORM GSTR 9/9C for FY 2018-19 till 30th September, 2020.
<b>(44)</b> 06-07-20	GST	Notification u/s 148 of M.P. GST Act, 2017 making amendments to special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.
<b>(45)</b> 29-07-20	VAT	Notification u/s. 3(4) and 3-A of M.P. Vat Act, 2002 superceeding notification No. (20) dated 11-2-2019 relating to appointment of Appellate Authority.
<b>(46)</b> 31-08-20	GST	Madhya Pradaesh Goods and Services Tax Rules, 2017 - Amendment in Rules

Noti. No.	Act	Particulars
(47) 05-09-20	VAT	Notification u/s 9(2) of M.P. VAT Act, 2002 notifying Reliance BP Mobility Limited w.e.f. 3-6-2020
(48) 04-09-20	CESS	M.P. Motor Spirit Upkar Adhiniyam, 2018 - M.P. Motor Spirit Upkar Niyam, 2018 - Amendment
(49) 04-09-20	CESS	M.P. Motor Spirit Upkar Adhiniyam, 2018 - M.P. Motor Spirit Upkar Niyam, 2018 - Notifying Companies
(50) 04-09-20	CESS	M.P. HSD Upkar Adhiniyam, 2018 - M.P. High Speed Diesel Upkar Niyam, 2018 - Amendment
(51) 04-09-20	CESS	M.P. HSD Upkar Adhiniyam, 2018 - M.P. High Speed Diesel Upkar Niyam, 2018 - Notifying Companies
(52) 11-09-20	GST	Notification u/s 128 of M.P. GST Act, 2017 amending Noti. No. (07) dt. 8-2-2019 extending the due date for furnishing of Annual Return FORM GSTR 9/9C for FY 2018-19 till 30th September, 2020.
(53) 11-09-20	GST	Notification u/s 50(1) r/w Section 148 of M.P. GST Act, 2017 amending Noti. No. (54) dated 30-6-2017 providing relief by conditional lowering of interest rate for tax periods of February, 2020 to July, 2020
(54) 11-09-20	GST	Notification u/s 128 of M.P. GST Act, 2017 providing relief by waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods for months from March, 2020 to June, 2020 for monthly filers and for quarters from January, 2020 to June, 2020 for quarterly filers
(55) 11-09-20	GST	Notification u/s 128 of M.P. GST Act, 2017 amending Noti. No. (07) dt. 8-2-2019 in order to provide conditional waiver of late fees for the period from July, 2017 to July, 2020



**2021) Gist of GST Madhya Pradesh Notifications - 2020**

**25**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars</b>
<b>(56)</b> 11-09-20	GST	Notification u/s 164 of M.P. GST Act, 2017 extending the date from which the facility of blocking and unblocking on e-way bill facility as per the provision of Rule 138E of M.P. GST Rules, 2017 shall be brought into force to 21-8-2019 from 21-6-2019
<b>(57)</b> 11-09-20	GST	Notification u/s 148 of M.P. GST Act, 2017 extending the due date for filing FORM GSTR-4 for financial year 2019-2020
<b>(58)</b> 11-09-20	GST	M.P. Goods and Services Tax (Removal of Difficulties) Order, 2020
<b>(59)</b>	-	-
<b>(60)</b> 28-09-20	VAT	Notification u/s 46(9) of M.P. VAT Act, 2002 extending period of disposal of Appeals pending before Appellate Authorities upto 31-3-2022 which has not been completed upto 31-3-2021.
<b>(61)</b> 28-09-20	GST	Notification u/r 48(4) of M.P. GST Rules, 2017 amending Noti. No. (29) dated 4-5-2020 in order to amend the class of registered persons for the purpose of e-invoice
<b>(62)</b> 28-09-20	VAT	Notification u/s. 3(4) and 3-A of M.P. Vat Act, 2002 superceeding notification No. (45) dated 29-7-2020 relating to appointment of Appellate Authority.
<b>(63)</b> 19-11-20	PT	Notification under Section 6 of M.P. Profession Tax Act superceeding Noti. No. (10) dated 30-3-2015 further amending Noti. No. (05) dated 15-2-2011 relating to extension of exemption to Physically handicapped persons upto 31-3-2025
<b>(64)</b> 25-11-20	VAT	Notification u/s 1 [2(a)] of M.P. VAT (Amendment) Act, 2020 appointing 29-2-2018 on the provisions of Section 2 of the said Act shall come into force relating to collection of cess under M.P. Motor Spirit / HSD UPKAR Adhiniyam, 2018

Noti. No.	Act	Particulars
(65) 05-12-20	GST	Notification u/s 168A of M.P. GST Act, 2017 extending period to pass order under Section 54(7) of M.P. GST Act w.e.f. 20-3-2020
(66) 05-12-20	GST	Notification u/s 1(2) of M.P. GST Act, 2017 appointing 1-1-2020 on which certain provisions of M.P. Goods and Services Tax (Second Amendment) Act, 2019 shall come into force
(67) 05-12-20	GST	Notification u/s 168A of M.P. GST Act, 2017 extending due date of compliance which falls during the period from 20-3-2020 to 29-6-2020 till 30-6-2020 and to extend validity of e-way bills
(68) 05-12-20	GST	Notification u/s 1(2) of M.P. GST Act, 2017 appointing 1-9-2019 on which provisions of Section 13 of M.P. Goods and Services Tax (Second Amendment) Act, 2019 shall come into force relating to refund of tax
(69) 05-12-20	GST	Notification u/s 1(2) of M.P. GST Act, 2017 appointing 1-9-2020 on which provisions of Section 10 of M.P. Goods and Services Tax (Second Amendment) Act, 2019 shall come into force relating to interest on delayed payment
(70) 05-12-20	GST	Notification u/s 128 r/w 148 of M.P. GST Act, 2017 amending Noti. No. (162) dated 29-12-2017 granting waiver / reduction in late fee for not furnishing FORM GSTR-4 for 2017- 18 and 2018-19, subject to the condition that the returns are filed between 22-9-2020 to 31-10-2020
(71) 05-12-20	GST	Notification u/s 128 of M.P. GST Act, 2017 granting waiver / reduction in late fee for not furnishing FORM GSTR-10, subject to the condition that the returns are filed between 22-9-2020 to 31-12-2020

**2021) Gist of GST Madhya Pradesh Notifications - 2020**

**27**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars</b>
<b>(72)</b> 30-12-20	GST	Notification u/s 44(1) r/w Rule 80 of M.P. GST Act, 2017 amending No. (43) dated 20-7-2020 extending due date of return till 31-10-2020 w.e.f. 30-9-2020.
<b>(73)</b> 30-12-20	GST	Notification u/r 48(4) of M.P. GST Rules, 2017 amending Noti. No. (29) dt. 4-5-20 relating to e-invoice
<b>(74)</b> 30-12-20	GST	Notification u/r 46 of M.P. GST Rules, 2017 amending Noti. No. (31) dated 4-5-2020 extending the date of implementation of the Dynamic QR Code for B2C invoices till 1-12-2020 w.e.f. 30-9-2020
<b>(75)</b>	-	-
<b>(76)</b> 30-12-20	GST	Notification u/s 148 of M.P. GST Act, 2017 notifying a special procedure for taxpayers for issuance of e-Invoices for the period 1-10-2020 to 31-10-2020 w.e.f. 30-9-2020
<b>(77)</b> 30-12-20	GST	Notification u/s 1(2) of M.P. GST Act, 2017 appointing 30-6-2020 on which provisions of Section 2 and 13 of M.P. Goods and Services Tax (Amendment) Act, 2020 shall come into force
<b>(78)</b> 30-12-20	GST	Notification u/r 46 of M.P. GST Rules, 2017 amending Noti. No. (68) dated 3-7-2017 notifying the number of HSN digits required on tax invoice w.e.f. 1-4-2021
<b>(79)</b> 30-12-20	GST	Notification u/s 1(2) of M.P. GST Act, 2017 appointing 18-5-2020 on which the provisions of Section 11 of M.P. Goods and Services Tax (Amendment) Act, 2020 [Section 140 of M.P. GST] shall come into force
<b>(80)</b> 30-12-20	GST	Notification u/s 9(3)(4), 11(1), 15(5) and 148 of M.P. GST Act, 2017 amending Noti. No. (53) dated 30-6-2017 exempting satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42nd meeting held on 5-10-2020 w.e.f. 16-10-2020

Noti. No.	Act	Particulars
(81)	-	-
(82) 30-12-20	GST	Notification u/s 1(2) of M.P. GST Act, 2017 appointing 10-11-2020 on which Section 7 of the provisions of M.P. Goods and Services Tax (Second Amendment) Act, 2019 [Section 39 of M.P. GST] shall come into force
(83) 30-12-20	GST	Notification u/s 39(1) & (7) of M.P. GST Act, 2017 notifying class of persons w.e.f. 10-11-2020
(84) 30-12-20	GST	Notification u/s 148 r/w 39(7) of M.P. GST Act, 2017 notifying special procedure for making payment of 35% as tax liability in first two month w.e.f. 1-1-2021
(85) 30-12-20	GST	Notification u/r 48(4) of M.P. GST Rules, 2017 implementing e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr w.e.f. 1-1-2021
(86) 29-12-20	VAT	Notification under Section 20 (8) of M.P. Vat Act, 2002 amending Notification No. (64) dated 27-9-2019 and (91) dated 29-11-2019 extending the date of completion of assessments and reassessment proceedings for the period 1-4-2017 to 30-6-2017 and for all remaining cases which has not completed upto 31-12-2020 to <b>28-02-2021</b>
(87) 29-12-20	VAT	Notification under Section 20 (8) of M.P. Vat Act, 2002 extending date of completion of assessment and reassessment proceedings for FY 2018-19 which has not been completed upto 31-12-2020 to <b>30-06-2021</b>



*See full Notifications on [www.dineshgangrade.com](http://www.dineshgangrade.com)  
[For TLD Subscribers only]*

**(12) फर्जी बिल जारी कर क्लेम की जा रही इनपुट टैक्स क्रेडिट रोकने हेतु जीएसटी के नियम सख्त किये गये**



**आर.एस. गोयल**

(सदस्य संपादक मंडल, टीएलडी)

- जीएसटी लागू होने के पूर्व रजिस्ट्रेशन के लिए आवेदन करने पर वाणिज्यिक कर विभाग के अधिकारी व्यवसाई के व्यवसाय स्थल के भौतिक सत्यापन हेतु स्वयं उनके व्यवसाय स्थल पर जाते थे तथा जिस व्यवसाई को रजिस्ट्रेशन दिया जाना है उसके व्यवसाय स्थल का निरीक्षण, उनके द्वारा रजिस्ट्रेशन प्राप्त करने हेतु दिये गये, प्राप्त किये गये दस्तावेजों का वेरीफिकेशन, व्यवसाई के लेखा पुस्तकों का निरीक्षण करते थे तथा उनके द्वारा व्यवसाई का एक स्टेटमेंट लिया जाता था जिसमें यह दर्ज किया जाता था कि व्यवसाई ने उक्त व्यवसाय में पूंजी कहा से लगाई है। उक्त व्यवसाय करने के पूर्व उनके द्वारा क्या व्यवसाय किया जाता था क्या उस व्यवसाय की कोई बकाया राशि तो नहीं है। इसके अतिरिक्त रजिस्ट्रेशन के आवेदन पत्र पर दो पंजीयत व्यवसाईयों के हस्ताक्षर करवाकर आवेदन को प्रमाणित करवा लिया जाता था तथा उन व्यवसाईयों से पहचान प्रमाण पत्र भी लिया जाता था इस प्रकार फर्जी व्यवसाईयों के द्वारा रजिस्ट्रेशन लेने की संभावनाएं कम होती थीं। जीएसटी के अंतर्गत रजिस्ट्रेशन जारी कर किये जाने की सरल प्रक्रिया का दुरुपयोग किया जाकर बहुत से फर्जी व्यवसाईयों के द्वारा रजिस्ट्रेशन प्राप्त कर फर्जी बिल जारी करते हुए, बड़े पैमाने पर कर अपवंचन किया जा रहा है।
- कर अपवंचन की रोकथाम हेतु **रजिस्ट्रेशन प्राप्त करने की प्रक्रिया** में अधिसूचना क्र. 94/2020 दिनांक 22-12-2020 के द्वारा **आमूलचूल परिवर्तन** किया जा रहा है। इन नियमों को लागू करने के पूर्व बायोमेट्रिक अथेन्टिकेशन हेतु जीएसटी पोर्टल पर समुचित व्यवस्थाएं करनी होंगी। अतः यह नियम तत्काल लागू नहीं हुआ है इसके लागू होने की घोषणा होना अभी बाकी है। रजिस्ट्रेशन प्रदाय करने के नियमों में जो परिवर्तन हुए हैं वे इस प्रकार हैं:-
  - वर्तमान में यदि किसी व्यवसाई के पास आधार कार्ड है तथा वे रजिस्ट्रेशन के लिये अप्लाय करते हैं तो आधार में दिये गये नंबर पर प्राप्त ओटीपी के आधार पर व्यवसाई को रजिस्ट्रेशन नंबर जारी कर दिया जाता है।
    - संशोधित नियमों के अनुसार अब रजिस्ट्रेशन प्राप्त करने के लिये व्यवसाई का बायोमेट्रिक अथेन्टिकेशन अनिवार्य कर दिया गया है। अर्थात् जो व्यवसाई रजिस्ट्रेशन प्राप्त करना चाहते हैं, उन्हें निम्न प्रक्रिया अपनानी होगी।

- फिंगरप्रिन्ट स्कैनर को पोर्टल पर लॉगइन करके संभवतः आधार की साईट से फिंगरप्रिन्ट का ऑनलाईन वेरीफिकेशन करना होगा तथा
- साथ ही वेबकेम के माध्यम से फोटो खिंचवाकर पोर्टल पर ऑनलाईन अपलोड करना होगा। उसके पश्चात् वे रजिस्ट्रेशन के लिये आवेदन कर पायेंगे।
- किन्तु यदि कोई व्यवसाई बायोमेट्रिक बेस्ड अथेन्टिकेशन नहीं करवाते हैं, तो ऐसे व्यवसाईयों को अपना आधार कार्ड, फोटोग्राफ तथा केवायसी के दस्तावेजों की सत्यप्रतिलिपि सहित कमिशनर के द्वारा नोटिफाईड फेसिलिटेशन सेन्टर पर भौतिक रूप से जाकर अपना बायोमेट्रिक वेरीफिकेशन करवाना होगा।
- यदि पार्टनरशिप कंसर्न या कंपनी है तो ऐसी स्थिति में सभी डायरेक्टर्स को उक्त वेरीफिकेशन करवाया जाना होगा।
- यदि कोई व्यवसाई बायोमेट्रिक अथेन्टिकेशन का विकल्प नहीं लेते है या उनका बायोमेट्रिक अथेन्टिकेशन फेल हो जाता है तो ऐसी स्थिति में विभागीय अधिकारी व्यवसाई के व्यवसाय स्थल पर जाकर वेरीफिकेशन के पश्चात् ही पंजीयन जारी करेंगे। यहां यह तथ्य महत्वपूर्ण है कि ऐसे वेरीफिकेशन में व्यवसाई को स्वयं व्यक्तिगत रूप से उपस्थित होना अनिवार्य होगा।
- वर्तमान में यदि आवेदन पत्र में कोई त्रुटि पाई जाती है तो व्यवसाईयों को 3 दिवस में उक्त त्रुटि को ठीक करने हेतु नोटिस दिया जाता था, अब यह अवधि बढ़ाकर 7 दिवस कर दी गई है।
- यदि व्यवसाई के द्वारा 7 दिवस की अवधि में जानकारी प्रस्तुत कर दी जाती है एवं विभाग द्वारा अगले 7 दिवस तक कोई कार्यवाही नहीं की जाती है, तो ऐसी स्थिति में स्वमेव ही रजिस्ट्रेशन नंबर जारी हो जावेगा।
- अथेन्टिकेशन का विकल्प लेने की स्थिति में विभाग के द्वारा कोई कार्यवाही नहीं की जाती है तो 7 दिवस के पश्चात् स्वमेव ही जारी हो जावेगा।
- अथेन्टिकेशन का विकल्प नहीं लेने की स्थिति में विभाग के द्वारा कोई कार्यवाही नहीं की जाती है तो 30 दिवस के पश्चात् स्वमेव ही जारी हो जावेगा।
- **कर अपवंचन रोकने हेतु ई-वे बिल के प्रावधानों में संशोधन:**
  - शासन को यह जानकारी प्राप्त हो रही थी कि 100 कि.मी. की दूरी के लिये 1 दिवस की वेलिडिटी देने से बहुत से व्यवसाई एक ई-वे बिल पर 1 ही दिन में 2 या 3 बार माल का परिवहन करके कर अपवंचन कर रहे हैं। अतः अब एक दिन की वेलिडिटी

के लिये 100 किमी. की दूरी को बढ़ाकर 200 कि.मी. कर दिया गया है। यह प्रावधान दिनांक 01 जनवरी 2021 से लागू होंगे।

- **फर्जी आईटीआर रोकने हेतु रजिस्ट्रेशन निरस्तीकरण के प्रावधानों में संशोधन:**
  - वर्तमान में बहुत से व्यवसायों के द्वारा गलत तरीकों से इनपुट टैक्स क्रेडिट क्लेम की जा रही है, उस पर सख्ती करने हेतु अब रजिस्ट्रेशन केन्सीलेशन से संबंधित प्रावधानों को ओर सख्त किया जा रहा है।
  - वर्तमान प्रावधानों के अनुसार यदि कोई व्यवसाई अपने व्यवसाय स्थल से व्यवसाय करते हुए नहीं पाये जाते हैं अथवा उनके द्वारा बिना माल या सेवाओं की सप्लाई के बिल या इन्वाइस जारी किये जाते हैं या रजिस्ट्रेशन प्राप्त करने के पश्चात बैंक अकाउंट तथा अन्य जानकारी प्रस्तुत नहीं की जाती है तो ऐसी स्थिति में रजिस्ट्रेशन केन्सीलेशन के प्रावधान लागू हैं।
  - रजिस्ट्रेशन निरस्तीकरण के प्रावधानों में निम्न नवीन परिस्थितियां जोड़ी गई हैं:-
    - यदि किसी व्यवसाई के द्वारा जीएसटी की धारा 16 के प्रावधानों का पालन किये बिना कोई इनपुट टैक्स रिबेट प्राप्त कर ली जाती है तो भी उनका रजिस्ट्रेशन केन्सल किया जा सकेगा।
    - यदि किसी व्यवसाई के द्वारा जीएसटीआर-3बी में दर्शाई गई आउटवर्ड सप्लाई से अधिक सप्लाई जीएसटीआर-1 में दर्शाई जाती है।
- **फर्जी आईटीसी क्लेम रोकने हेतु बिना सुनवाई का मौका प्रदान किये पंजीयन सस्पेंड किये जाने के प्रावधान:**
  - वर्तमान में जीएसटी के अंतर्गत यह प्रावधान है कि यदि किसी अधिकारी को यह लगता है कि किसी व्यवसाई का रजिस्ट्रेशन नंबर निरस्त किये जाने योग्य है तो वे ऐसे व्यवसाई को सुनवाई का समुचित मौका प्रदान करते हुए उनके रजिस्ट्रेशन को सस्पेंड कर देते थे। सस्पेंशन की स्थिति में जीएसटी पोर्टल पर व्यवसाई को प्राप्त सुविधाएं जैसे ई-वे बिल डाउनलोड करना इत्यादि रूक जाती हैं।
  - सस्पेंशन के नियमों में एक नई कंडीशन जोड़ी गई है कि यदि किसी व्यवसाई के द्वारा प्रस्तुत जीएसटीआर 3-बी तथा जीएसटीआर-1 के कम्पेरिज़न में कोई फर्क आता है अथवा व्यवसाई के द्वारा क्लेम की गई इनपुट टैक्स क्रेडिट में तथा उनके जीएसटीआर 2-ए एवं 2-बी में कोई सिग्निफिकेन्स डिफरेंस (अत्याधिक अंतर) है या कोई विसंगति पाई जाती है तो भी ऐसे व्यवसाई का रजिस्ट्रेशन नंबर उन्हें बिना किसी प्रकार की पूर्व



सूचना दिये तुरन्त सस्पेन्ड कर दिया जावेगा तथा उन्हें रजिस्ट्रेशन निरस्तीकरण हेतु सूचनापत्र जारी किया जायेगा ।

- रजिस्ट्रेशन नंबर सस्पेन्ड किये जाने की स्थिति में जहां एक ओर व्यवसाई ई-वे बिल डाउनलोड नहीं कर पायेंगे, वहीं दूसरी ओर उन्हें सस्पेंशन की अवधि में किसी भी प्रकार का कोई रिफण्ड प्राप्त नहीं होगा ।
- यद्यपि व्यवसाई को बिना सुनवाई का मौका दिये उनका रजिस्ट्रेशन नंबर सस्पेन्ड करना प्राकृतिक न्याय एवं समता के सिद्धांत के विरुद्ध है, किन्तु फर्जी इनपुट टैक्स क्रेडिट के क्लेम पर तत्काल रोक लगाने हेतु यह नियम लाये गये हैं ।
- **फर्जी आईटीसी क्लेम रोकने हेतु विक्रेता व्यवसाई के द्वारा विक्रय की जानकारी अपलोड करने पर रोक करने संबंधी नियम : यह प्रावधान दिनांक 01 जनवरी 2021 से लागू होंगे ।**
  - वर्तमान मे यह प्रावधान है कि यदि कोई व्यवसाई जीएसटीआर-1 प्रस्तुत (फर्निश) करने के बजाय उनके द्वारा की गई सप्लाईज की जानकारी को जीएसटी पोर्टल पर अपलोड कर देते हैं तो भी ऐसी अपलोड की गई जानकारी माल या सेवा के प्राप्तकर्ता व्यवसाई के जीएसटीआर-2ए अथवा 2बी मे रिफ्लेक्ट हो जाती है जिससे ऐसे व्यवसाई को इनपुट टैक्स क्रेडिट क्लेम करने की पात्रता आ जाती है ।
  - उपरोक्त प्रावधानों को संशोधित किया जाकर अब यह नियम लाये गये हैं कि यदि विक्रेता व्यवसाई अपना जीएसटीआर-1 फर्निश करते हैं तभी क्रेता व्यवसाई को इनपुट टैक्स क्रेडिट क्लेम करने की पात्रता आएगी ।
  - त्रैमासिक जीएसटीआर-1 प्रस्तुत करने वाले व्यवसाईयों को यह सुविधा पृथक से प्रदान की गई है कि वे त्रैमासिक जीएसटीआर-1 प्रस्तुत करने के पूर्व आईएफएफ (इनवाईस फर्निशिंग फेसिलिटी) के अंतर्गत अगले माह की 13 तारीख तक उनके द्वारा पंजीकृत व्यवसाईयों को की गई सप्लाई की जानकारी प्रस्तुत कर सकेंगे । जैसे ही उनके द्वारा यह जानकारी अपलोड की जाएगी वैसे ही क्रेता व्यवसाई के जीएसटीआर-2ए/2बी मे रिफ्लेक्ट हो जाएगी तथा क्रेता व्यवसाई उसका इनपुट टैक्स क्रेडिट क्लेम कर सकेंगे ।
  - वर्तमान में व्यवसाई को उनके जीएसटीआर-2ए/2बी में रिफ्लेक्ट हुई सप्लाईज एवं वसूल किये गये कर के 110 प्रतिशत तक इनपुट टैक्स क्रेडिट क्लेम करने की पात्रता थी जिसे कम किया जाकर 105 प्रतिशत कर दिया गया है । यह प्रावधान दिनांक 01 जनवरी 2021 से लागू होंगे ।

- क्रेडिट लेजर में उपलब्ध राशि के उपयोग पर प्रतिबंध के सम्बन्ध में प्रावधान (1 जनवरी 2021 से लागू):-
  - यह प्रावधान लाये गये हैं कि यदि किसी व्यवसाई के द्वारा किसी महीने में 50 लाख से अधिक मूल्य की करयोग्य सप्लाई (करमुक्त सप्लाई या जीरो रेटेड सप्लाई के छोड़कर) की जाती है तो ऐसे व्यवसाई, (कुछ परिस्थितियों को छोड़कर) उनके क्रेडिट लेजर में उपलब्ध राशि में से उनके द्वारा की गई आउटवर्ड सप्लाई पर देयकर के 99 प्रतिशत से अधिक की राशि क्रेडिट लेजर से उपयोग में नहीं ली जा सकेगी।
  - यह प्रावधान निम्न व्यवसाईयों पर लागू नहीं होगा (1 जनवरी 2021 से लागू):-
    - जिन्होंने पिछले दो वित्तीय वर्षों में आयकर अधिनियम में राशि रु. 1 लाख से अधिक आयकर जमा किया गया हो।
    - ऐसे व्यवसाई जिन्होंने जीएसटी अधिनियम की धारा 54(3)(i/ii) के अंतर्गत राशि रु. 1 लाख से अधिक का रिफण्ड प्राप्त किया हो।
    - ऐसे व्यवसाई जिन्होंने कुल आउटवर्ड टैक्स का 1 प्रतिशत राशि नकद जमा की गई हो।

□

## (13) क्यू.आर.एम.पी. स्कीम

आर.एस. गोयल

(सदस्य संपादक मंडल, टीएलडी)

- वर्तमान में 1.5 करोड़ से कम टर्नओवर वाले व्यवसाईयों को जीएसटीआर-1 त्रैमासिक रूप से भरने का विकल्प प्राप्त है।
- अर्थात् वे चाहें तो मासिक जीएसटीआर-1 भरने के स्थान पर त्रैमासिक जीएसटीआर-1 भरने का विकल्प ले सकते हैं।
- किन्तु छोटे एवं बड़े सभी व्यवसाईयों को जीएसटीआर 3-बी अनिवार्य रूप से प्रत्येक माह भरना होता था।
- छोटे व्यवसाईयों के द्वारा यह निरंतर मांग की जा रही थी कि उन्हें जीएसटीआर 3-बी को भी त्रैमासिक रूप से प्रस्तुत करने की सुविधा प्रदान की जावे।
- सेन्ट्रल बोर्ड ऑफ डायरेक्ट टैक्सेस के द्वारा दिनांक 10-11-2020 को एक अधिसूचना क्र. 84/2020/सेन्ट्रल टैक्स जारी की, जिसके अनुसार ऐसे व्यवसाई जिनका पिछले

वित्तीय वर्ष में टर्नओवर 5 करोड़ से कम था, उन्हें मासिक जीएसटीआर-1 के स्थान पर त्रैमासिक जीएसटीआर-1 भरने की सुविधा का विकल्प प्रदान किया गया है।

- यदि किसी व्यवसाई के द्वारा क्यू.आर.पी.एम.पी. स्कीम के अंतर्गत मासिक-त्रैमासिक विवरण पत्र प्रस्तुत करने का विकल्प प्राप्त कर लिया है, किन्तु इस बीच उनका टर्नओवर 5 करोड़ से अधिक हो जाता है, तो ऐसी स्थिति में उन्हें अगले त्रैमास के प्रथम माह से मासिक रिटर्न प्रस्तुत करने का दायित्व आ जायेगा।
- ऐसे समस्त व्यवसाई जिनके द्वारा माह अक्टूबर का रिटर्न 30 नवम्बर या उसके पूर्व प्रस्तुत कर दिया गया हो, उनके संबंध में यह मान लिया जावेगा कि उन्होंने नई स्कीम को ऑप्ट कर लिया है तथा पोर्टल उन्हें ऑटोमेटिकली नई स्कीम में शिफ्ट कर देगा।
- क्यू.आर.पी.एम.पी. स्कीम के अंतर्गत ऐसे व्यवसाई जिनका की टर्नओवर 5 करोड़ से कम है तथा जिनके द्वारा अक्टूबर माह का जीएसटीआर 3-बी 30-11-2020 या उसके पूर्व जमा कर दिया गया है, ऐसे समस्त व्यवसाईयों को दिनांक 21-12-2020 को यह नोटिफिकेशन प्राप्त हो रहे हैं कि क्यू.आर.पी.एम.पी. स्कीम के अंतर्गत ऐसे व्यवसाईयों को पोर्टल के द्वारा स्वमेव (ऑटोमेटिकली) त्रैमासिक अथवा मासिक स्कीम में कन्वर्ट कर दिया गया है।
- यदि कोई व्यवसाई जो मासिक जीएसटीआर 3-बी भरते थे एवं उन्हें पोर्टल के द्वारा त्रैमासिक रिटर्न भरने की स्कीम में शिफ्ट कर दिया गया है एवं यदि ऐसे व्यवसाई जीएसटीआर 3-बी मासिक प्रस्तुत करना चाहते हैं, तो वे पोर्टल पर जाकर पुनः मासिक रिटर्न भरने का विकल्प ले सकते हैं।
- यदि किसी व्यवसाई को पोर्टल के द्वारा नई स्कीम के अंतर्गत त्रैमासिक रिटर्न भरने हेतु शिफ्ट कर दिया है तथा वे पुरानी स्कीम में ही रहना चाहते हैं तो ऐसी स्थिति में वे पोर्टल पर जाकर पुरानी स्थिति को बहाल कर सकते हैं। नई स्कीम का विकल्प लेने या नई स्कीम से बहाल होने की सुविधा पोर्टल पर 5 दिसम्बर 2020 से प्रारंभ हो चुकी है तथा इसकी अंतिम तारीख 31 जनवरी 2021 है।
- किन्तु यदि ऐसे व्यवसाई जिन्हें पोर्टल के द्वारा मासिक से त्रैमासिक रिटर्न हेतु शिफ्ट कर दिया गया है, यदि वे कार्यवाही नहीं करते हैं, तो उन्हें जनवरी से मार्च 2021 तक का जीएसटीआर 3-बी त्रैमासिक रूप से प्रस्तुत करना होगा।
- यहां यह ध्यान देने योग्य तथ्य है कि यद्यपि छोटे व्यवसाईयों को त्रैमासिक जीएसटीआर 3-बी प्रस्तुत करने की सुविधा दी जा रही है, किन्तु ऐसे समस्त व्यवसाईयों को प्रत्येक

माह का कर मासिक रूप से ही जमा करना होगा ।

- यहां यह ध्यान देने योग्य तथ्य है कर जमा करने के पूर्व व्यवसाई को उक्त माह में की गई सप्लाई पर देय कर की गणना करनी होगी तथा उसमें से स्वीकार योग्य इनपुट टैक्स क्रेडिट को कम करते हुए वास्तविक राशि अगले माह की 25 तारीख तक अनिवार्य रूप से जमा करना होगी ।
- इस संबंध में यह भी विकल्प दिया गया है कि यदि छोटे व्यवसाई प्रत्येक माह कर की गणना नहीं करना चाहते हैं, तो वे पिछली तिमाही में जमा किये गये कर के 35-35 प्रतिशत के बराबर कर धन त्रैमास के प्रथम एवं द्वितीय माह हेतु जमा कर सकेंगे तथा पूरे त्रैमास हेतु देय कर में से पूर्व में जमा किये गये 70 प्रतिशत (35+35 प्रतिशत) कर की राशि जमा करते हुए जीएसटीआर 3-बी प्रस्तुत करना होगा ।
- पोर्टल के द्वारा निम्न व्यवसाईयों को ऑटोमेटिकली नई स्कीम में शिफ्ट कर दिया गया है :-
  - ऐसे व्यवसाई जिनका टर्नओवर 1.5 करोड़ से कम था तथा जिनके द्वारा वर्तमान में जीएसटीआर-1 त्रैमासिक रूप से भरा जा रहा है । उन्हें पोर्टल के द्वारा नई स्कीम के अंतर्गत त्रैमासिक जीएसटीआर 3-बी प्रस्तुत करने हेतु शिफ्ट कर दिया जाएगा ।
  - ऐसे व्यवसाई जिनका टर्नओवर 1.5 करोड़ से कम था तथा जिनके द्वारा वर्तमान में जीएसटीआर-1 मासिक रूप से भरा जा रहा है । उन्हें पोर्टल के द्वारा नई स्कीम के अंतर्गत मासिक जीएसटीआर 3-बी प्रस्तुत करने हेतु शिफ्ट कर दिया जाएगा ।
  - ऐसे व्यवसाई जिनका टर्नओवर 1.5 करोड़ से अधिक किन्तु 5 करोड़ से कम है । उन्हें पोर्टल के द्वारा नई स्कीम के अंतर्गत त्रैमासिक जीएसटीआर 3-बी प्रस्तुत करने हेतु शिफ्ट कर दिया जाएगा ।
- यहां यह तथ्य महत्वपूर्ण है कि चूंकि छोटे व्यवसाईयों को जीएसटीआर 3-बी एवं जीएसटीआर-1 त्रैमासिक रूप से भरने की सुविधा दी जा रही है अतः उनके द्वारा जो माल बड़े व्यवसाई को बेचा जाता है उन्हें इनपुट टैक्स क्रेडिट लेने में कठिनाईयों का सामना नहीं करना पड़े इस हेतु पोर्टल पर एक नई सुविधा IFF (Invoice Furnishing Facility) प्रारंभ की जा रही है । जिसके अंतर्गत व्यवसाई को यह सुविधा दी गई है कि यदि वे पिछले माह के समस्त इनवॉइस को अगले माह की 13 तारीख तक पोर्टल पर अपलोड कर देते हैं तो क्रेता व्यवसाई के जीएसटीआर 2-ए के अंतर्गत ऐसे इनवॉइस रिफ्लेक्ट हो जाएंगे तथा वे उसका आईटीसी प्राप्त कर सकेंगे ।

□

## (14) साक्षात्कार सी.ए. बी.एल. बंसल सा., इंदौर



**प्र.1:** जहां तक हमें ज्ञात है व्यस्त और सफल होने के बाद भी आप नियमित रूप से सुबह घूमने और शाम को गीता भवन जाते हैं। कैसे आप अपनी दिनचर्या को इतनी व्यवस्थित रखते हैं?

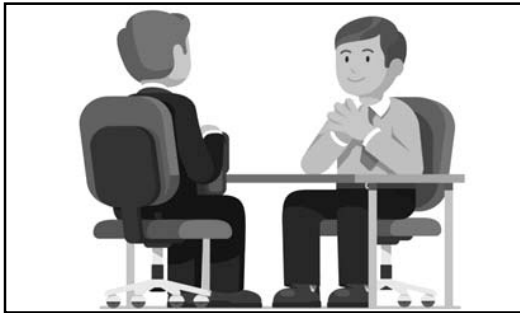
**बंसल सा.:** यदि नियम बना लिया जाये तो दोनों बातों की साधना मुश्किल कार्य नहीं लगेगा। जहां तक घूमने जाने की बात है वह स्वास्थ्य के लिए बहुत आवश्यक भी है और फेमिली डॉक्टर का कहना भी है एक दिन में कम से कम पांच कि.मी. घूमना अत्यंत आवश्यक है।

गीता भवन जाने का कारण एक तो यह है कि नियमित देव दर्शन हो जाते हैं और साधू महात्माओं के प्रवचन भी वहां नियमित होते हैं, उन्हें भी सुनने का अवसर प्राप्त हो जाता है।

**प्र.2:** एक दीर्घ अवधि से आप प्रेक्टिस करते रहे हैं। पहले और बाद की वकालात में आपने क्या परिवर्तन महसूस किया है ?

**बंसल सा.:** प्रेक्टिस में बहुत बदलाव आ गया है। पूर्व में नियमित कानून के मैग्जीन व रिपोर्ट पढ़ना आवश्यक होता था। कानून में परिवर्तन होते रहते हैं तथा बोर्ड, हाईकोर्ट व सुप्रीम कोर्ट के निर्णयों को पढ़कर स्वयं को अपडेट रखना भी आवश्यक होते हैं। ऊपरी अदालतों में स्वयं को अपडेट रखना अभी भी आवश्यक है। हालांकि आयकर कानून में बहुत परिवर्तन नहीं हुए हैं परन्तु स्टेट में लागू इनडायरेक्ट टैक्सेस में कानूनों में समय समय पर अत्यधिक परिवर्तन होते रहे हैं इसलिए उन्हें पढ़ते रहना और उनसे संबंधित प्रावधानों को जैसे वर्तमान में जी.एस.टी. आया है उसने पुराने प्रेक्विशनरों को तो करीब-करीब आउट ऑफ प्रेक्टिस कर दिया है। इसलिए मेरा सुझाव है कि डायरेक्ट टैक्स जैसे आयकर, कम्पनी कर आदि में प्रेक्टिस करना ही लम्बी अवधि में लाभप्रद है।

प्रेरणा



**सी.ए. सुधीर हालाखंडी**

सहयोग- श्री राघवेन्द्र दुबे

से.नि. अपर आयुक्त, वाणिज्यिक

कर एवं से.नि. लेखापाल सदस्य,

म.प्र. वाणिज्यिक कर अपील बोर्ड

आदर सहित, नीलेश गंगराड़े

**प्र.3:** सफल लोगों की पृष्ठभूमि सभी के लिये प्रेरणादायी होती है। आपने प्रारंभिक जीवन शिक्षा-दीक्षा और कबसे आपने इस व्यवसाय को चुना कृपया बताएं।

**बंसल सा.:** मेरा जन्म इन्दौर में सन् 1938 में हुआ। सम्पूर्ण शिक्षा प्राथमिक से लेकर पोस्ट ग्रेजुएट तक की सभी इन्दौर में ही हुई। मैंने सी.ए. की पढ़ाई व आर्टीकलशिप भी इन्दौर में ही एम. मेहता एंड कम्पनी से की थी। 1966 में मैंने अपना स्वयं का ऑफिस बी.बंसल एण्ड कम्पनी से प्रारम्भ किया था। एक पार्टनरशिप ऑफिस भी बंसल सोडानी के नाम से शासकीय आडिट के लिए प्रारंभ की थी जसे कुछ वर्षों बाद बंद कर दी थी। चूंकि मैंने एम. मेहता एण्ड कंपनी में सेल्स टेक्स का काम संभाला था अतएव मुझे शुरु में सेल्स टेक्स की ही प्रेक्टिस करना पड़ी। परन्तु जब मैंने अपनी स्वतंत्र प्रेक्टिस प्रारंभ की तत्पश्चात मैंने ऑडिट तथा आयकर संबंधी सम्पूर्ण प्रेक्टिस करने का अवसर प्राप्त हुआ और इसी प्रकार मुझे सी.ए. संबंधी संपूर्ण कार्य करने का अवसर प्राप्त हुआ और मुझे अपने व्यवसाय को आगे प्रगति करने का अच्छा अवसर प्राप्त हुआ।

**प्र.4:** आप टेक्स प्रेक्टिशनर्स और सी.ए. के विभिन्न संगठनों में भी रहे हैं। इस बारे में कुछ जानकारी दें ?

**बंसल सा.:** साथ ही मुझे सी.ए. व टेक्स प्रेक्टिशनर्स एसोसिएशन में कार्य करने का अवसर प्राप्त हुआ। इन एसोसिएशन्स में इन्दौर ब्रांच के विभिन्न पदों पर एक से अधिक वर्षों तक कार्य करने का अवसर प्राप्त हुआ। सी.ए. के क्षेत्र में रीजनल व सेन्ट्रल कोन्सिल के लिए भी चुनाव लड़ने व रीजनल कोन्सिल में विभिन्न पदों पर कार्य करने का अवसर प्राप्त हुआ।

टेक्स प्रेक्शिनर्स एसोसिएशन में इन्दौर में बहुत कार्य करने का अवसर प्राप्त हुआ। मुझे सी.ए. डी.जे. दवे साहब का बहुत सहयोग मिला जिसके कारण भी व्यवसायिक कार्य एवं एसोसिएशन में भी चुनाव जो कि सेन्ट्रल इंडिया तक होते हैं जीतना संभव हो सका।

**प्र.5:** इन प्रोफेशनल संगठनों के अलावा क्या आप सामाजिक संगठनों में भी सक्रिय रहे हैं ?

**बंसल सा.:** सामाजिक क्षेत्र में रोटरी क्लब इन्दौर सेन्ट्रल व श्री अग्रसेन महासभा इन्दौर जो कि दोनों ही इन्दौर की प्रतिष्ठित संस्थाएं हैं मैं विभिन्न पदों पर कार्य करने का अवसर प्राप्त हुआ।

**प्र.6:** वर्तमान में आप अधिकांशतः अपीलीय न्यायालयों में जाते हैं, अपील प्रकरणों में सफल पैरवी के लिये क्या गुर बताना चाहेंगे ?

**बंसल सा.:** अपील प्रकरणों को सफलतापूर्वक निपटाने के लिए कर कानून का व नवीनतम उच्च न्यायालयों व ट्रिब्यूनल्स में आदेशों का ज्ञान होना अतिआवश्यक है। समय पर कर कानूनों

में जो संशोधन होते हैं उन्हें ध्यान में रखते हुए संबंधित आदेश में जिन जिन धाराओं व नियमों का उल्लेख किया गया है उन्हें ही उसी प्रकरण में या समकक्ष प्रकरणों की अवधि में लागू मानते हुए प्रकरणों का अध्ययन करना आवश्यक है। उच्चतम न्यायालय में प्रकरण का निराकरण सभी न्यायालयों अपील प्रकरणों में मान्य किये जाते हैं। उच्च न्यायालय के आदेश सामान्यतः उसी राज्य के न्यायालय व अपीलीय प्रकरणों में मान्य होते हैं अन्य प्रदेशों में बंधनकारी नहीं होते हैं।

वर्तमान में टेक्स प्रेक्टिशनर्स एसोसिएशन द्वारा आयोजित सेमिनार व कानून विशेषज्ञों की समय-समय पर वार्ताएं आयोजित की जाती हैं उनमें सक्रिय भाग लेकर अपना ज्ञान बढ़ाने का प्रयत्न करना चाहिए।

**प्र. 7:** आप इस विधि व्यवसाय में आने वाले नए लोगों को क्या सलाह या मार्गदर्शन देना चाहेंगे।

**बंसल सा.:** अंत में मैं समस्त प्रोफेशनल भाई व बहनों को सलाह दूंगा कि अपने प्रोफेशन में पूरी मेहनत व ईमानदारी से कार्य करते रहें। शॉर्टकट के चक्कर में नहीं पड़ते हुए जो भी कार्य हो उसे विधि अनुसार पूर्ण कराने का प्रयत्न करें। ऐसे कार्य करने में कानून की बारीकियों से अवगत होने का मौका मिलेगा और कार्य में दक्षता आवेगी।



## (15) Gist of GST Chhattisgarh Notifications - 2020

Noti. No.	Act	Particulars (Chhattisgarh)
(01) 01-01-20	GST	Notification u/s 1(2) of Chhattisgarh Goods and Services Tax (Amendment) Ordinance, 2019 appointing 1-1-2020 to bring into force certain provisions of the Chhattisgarh Goods and Services Tax (Amendment) Ordinance, 2019 (No. 4 of 2019).
(04) 15-01-20	GST	Notification u/s 128 of C.G. GST Act, 2017 amending Notification No. (3) dated 24-1-2018 extending the one-time amnesty scheme to file all FORM GSTR-1 from July 2017 to Nov., 2019 till 17th January, 2020.
(05) 20-02-20	GST	Notification u/s 9(1) and 15(5) of C.G. GST Act, 2017 amending Notification No. 1/2017- State Tax (Rate) (69) dated 28-6-2017 notifying rate of GST on supply of lottery.



**2021) Gist of GST Chhattisgarh Notifications - 2020 39**

<b>(19)</b> 31-03-20	VAT	Notification u/s 15-B(1) of C.G. Vat Act, 2005 reducing Tax Rate on ATF (Aviation Turbine Fuel)-Time Extension w.e.f. 1-4-2020
<b>(20)</b> 26-03-20	VAT	Notification u/s 21 (8) of C.G. Vat Act, 2005 extending of time limit for assessment for the year 2015-16 Such dealer whose turnover is not more than 1 crore upto 30-6-2020
<b>(21)</b> 26-03-20	VAT	Notification u/s 21(8) of C.G. Vat Act, 2005 extending of time limit for assessment for the year 2015-16 Such dealer whose turnover is more than 1 crore upto 30-6-2020
<b>(22)</b> 26-03-20	VAT	Notification u/s 21(8) of C.G. Vat Act, 2005 amending Notification No. (59) dated 29-6-2019 extending time limit for Vat assessment-2016-17 upto 30-9-2020
<b>(23)</b> 26-03-20	VAT	Notification u/s 15-B(1)(ii) of C.G. Vat Act, 2005 VAT and Form18 Time Extended 2016-17 upto 30-4-2020
<b>(24)</b> 26-03-20	VAT	Notification u/s 15-B(1)(ii) of C.G. Vat Act, 2005 amending Notification No. (104) dated 10-12-2018 VAT and Form18 Time Ext. 2016-17-Part-C upto 30-4-2020
<b>(35)</b> 31-03-20	GST	Notification u/s 148 of C.G. GST Act, 2017 providing special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 w.e.f. 21-3-2020
<b>(36)</b> 31-03-20	GST	Notification u/s 148 of C.G. GST Act, 2017 waiving off the requirement for furnishing FORM GSTR-1 for 2019-20 for taxpayers who could not opt for availing the option of special composition scheme under Notification No. 21/2019-State Tax (Rate) (46) dated 23-4-2019 w.e.f. 21-3-2020

Noti. No.	Act	Particulars (Chhattisgarh)
(37) 31-03-20	GST	Notification u/r 48(4) of C.G. GST Rules, 2017 exempting certain class of registered persons from issuing e-invoices and the date for implementation of e-invoicing extended to 1-10-2020
(38) 31-03-20	GST	Notification u/r 46 sixth proviso of C.G. GST Rules, 2017 exempting certain class of registered persons capturing dynamic QR code and the date for implementation of QR Code to be extended to 1-10-2020
(39) 31-03-20	GST	Notification u/r 80 of C.G. GST Rules, 2017 extending the time limit for furnishing of the annual return specified under Section 44 of CGGST Act, 2017 for the financial year 2018-2019 till 30-6-2020.
(41) 31-03-20	GST	Notification u/s 25(6D) of C.G. GST Act, 2017 specifying the class of persons who shall be exempted from aadhar authentication w.e.f. 1-4-2020
(42) 31-03-20	GST	Notification u/s 25(6B) of C.G. GST Act, 2017 notifying the date from which an individual shall undergo authentication, of Aadhaar number in order to be eligible for registration w.e.f. 1-4-2020
(43) 31-03-20	GST	Notification u/s 25(6C) of C.G. GST Act, 2017 specifying class of persons, other than individuals who shall undergo authentication, of Aadhaar number in order to be eligible for registration w.e.f. 1-4-2020
(44) 31-03-20	GST	Notification u/s 148 of C.G. GST Act, 2017 prescribing the due date for furnishing FORM GSTR-1 for the quarters April, 2020 to June, 2020 and July, 2020 to September, 2020 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year effective from 23-3-2020

**2021) Gist of GST Chhattisgarh Notifications - 2020 41**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars (Chhattisgarh)</b>
<b>(45)</b> 31-03-20	GST	Notification u/r 61(5) and u/s 168 of C.G. GST Act, 2017 prescribing return in FORM GSTR-3B of CGGST Rules, 2017 along with due dates of furnishing the said form for April, 2020 to Sept., 2020 w.e.f. 23-3-20
<b>(46)</b> 31-03-20	GST	Notification u/s 9(1), (3), (4), 11(1), 15(5) and 148 of C.G. GST Act, 2017 amending Notification No. 11/2017-State Tax (Rate) (79) dated 28-6-2017 reducing CGGST rate on Maintenance, Repair and Overhaul (MRO) services in respect of aircraft from 18% to 5% with full ITC w.e.f. 1-4-2020
<b>(47)</b> 31-03-20	GST	Notification u/s 9(1) and 15(5) of C.G. GST Act, 2017 amending Notification No. 1/2017- State Tax (Rate) (69) dated 28-6-2017 to prescribe change in CGGST rate of goods.
<b>(49)</b> 08-04-20	GST	Notification u/s 148 of C.G. GST Act, 2017 exempting foreign airlines from furnishing reconciliation Statement in FORM GSTR-9C effective from 16-3-2020
<b>(51)</b> 08-04-20	GST	Notification u/s 50(1) and 148 of C.G. GST Act, 2017 providing relief by conditional lowering of interest rate for tax periods of February, 2020 to April, 2020 w.e.f. 20-3-2020
<b>(52)</b> 08-04-20	GST	Notification u/s 128 r/w 148 of C.G. GST Act, 2017 providing relief by conditional waiver of late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 2020 to April, 2020 w.e.f. 20-3-2020
<b>(53)</b> 08-04-20	GST	Notification u/s 128 of C.G. GST Act, 2017 amending Notification No. (3) dated 24-1-2018 providing relief by conditional waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods of February, 2020 to April, 2020

Noti. No.	Act	Particulars (Chhattisgarh)
(54) 08-04-20	GST	Notification u/s 148 of C.G. GST Act, 2017 extending due date of furnishing FORM GST CMP-08 for the quarter ending March, 2020 till 7-7-2020 and filing FORM GSTR-4 for FY 2020-21 till 15-7-2020
(55) 08-04-20	GST	Notification u/r 61(5) and Section 168 of C.G. GST Act, 2017 amending Notification No. (45) dated 8-4-2020 extending due date for furnishing FORM GSTR-3B for supply made in the month of May, 2020.
(60) 30-04-20	VAT	Notification u/s 15-B(1) of C.G. Vat Act, 2005 amending Notification No. (103) dated 10-12-2018 - VAT and Form 18 Time Extended 2016-17 (main) upto 30-6-2017
(61) 30-04-20	VAT	Notification u/s 15-B(1)(ii) of C.G. Vat Act, 2005 VAT and Form 18 Time Extended 2016-17-Part-C (main) upto 30-6-2020
(71) 08-05-20	GST	Notification u/s 44(1) and Rule 80 of C.G. GST Act, 2017 extending the due date for furnishing of FORM GSTR 9/9C for FY 2018-19 till 30th September, 2020.
(78) 25-06-20	VAT	Noti. u/s 21(8) of C.G. Vat Act extending time limit for Assessment for year 15-16 for such dealers whose turnover does not exceed Rs. 1 crore upto 31-12-2020
(79) 25-06-20	VAT	Noti. u/s 21(8) of C.G. Vat Act, 2005 extending time limit for assessment for year 2015-16 for such dealers whose turnover exceeds Rs. 1 crore upto 31-12-2020
(80) 25-06-20	VAT	Noti. u/s 21(8) of C.G. Vat Act, 2005 extending time limit for assessment for the year 2016-17 time barring ending on 31-12-2019 extended up to 30-06-2021
(81) 25-06-20	VAT	Notification u/s 15-B(1)(ii) of C.G. Vat Act, 2005 extending time for filing Form-18 (Self Assessment) for FY 2016-17 upto 30-11-2020

**2021) Gist of GST Chhattisgarh Notifications - 2020 43**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars (Chhattisgarh)</b>
<b>(82)</b> 25-06-20	VAT	Noti. u/s <b>15-B(1)(ii)</b> of C.G. Vat Act, 2005 amending Noti. No. (104) dt. 10-12-18 relating to exemption from Part C of Form 18 for FY 2016-17 date extended upto 30-11-2020
<b>(83)</b> 06-07-20	GST	Chhattisgarh Goods and Services Tax (Sixth Amendment) Rules, 2020
<b>(84)</b> 06-07-20	GST	Chhattisgarh Goods and Services Tax (Seventh Amendment) Rules, 2020
<b>(85)</b> 06-07-20	GST	Notification u/s <b>50(1)</b> r/w 148 of C.G. GST Act, 2017 amending Noti. No. 13/2017-State Tax (87) dt. 29-6-2017 providing relief by lowering of interest rate for a prescribed time for tax periods from February, 2020 to July, 2020 w.e.f. 24-06-2020
<b>(86)</b> 06-07-20	GST	Notification u/s <b>128</b> r/w 148 of C.G. GST Act, 2017 amending Noti. No. 76/2018-State Tax (123) dt. 31-12-2018 providing one time amnesty by lowering/ waiving of late fees for non furnishing of FORM GSTR-3B from July, 2017 to January, 2020 and also providing relief by conditional waiver of late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 2020 to July, 2020 w.e.f. 24-06-2020
<b>(87)</b> 06-07-20	GST	Notification u/s <b>128</b> of C.G. GST Act, 2017 amending Noti. No. 4/2018-State Tax (3) dt. 24-1-2018 providing relief by waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods for months from March, 2020 to June, 2020 for monthly filers and for quarters from January, 2020 to June, 2020 for quarterly filers w.e.f. 24-06-2020
<b>(88)</b> 06-07-20	GST	Notification u/s <b>168</b> of C.G. GST Act, 2017 r/w Rule 61(5) amending Noti. No. 29/2020-State Tax (45) dt. 31-3-2020 extending due date for furnishing FORM GSTR-3B for supply made in the month of August,

2020 for taxpayers with annual turnover up to Rs. 5 crore w.e.f. 24-06-2020

Noti. No.	Act	Particulars (Chhattisgarh)
(89) 06-07-20	GST	Chhattisgarh Goods and Services Tax (Removal of Difficulties) Order, 2020 effective from 25-6-2020
(92) 21-07-20	GST	Chhattisgarh Goods and Services Tax (Eighth Amendment) Rules, 2020 w.e.f. 1-7-2020
(95) 06-08-20	GST	Notification u/s 148 of C.G. GST Act, 2017 amending Noti. No. 21/2019-State Tax (46) dt. 23-4-2019 extending the due date for filing FORM GSTR-4 for financial year 2019-2020 w.e.f. 13-07-2020
(96) 06-08-20	GST	Chhattisgarh Goods and Services Tax (Ninth Amendment) Rules, 2020 effective from 30-7-2020
(97) 06-08-20	GST	Notification u/r 48(4) of C.G. GST Act, 2017 amending Noti. No. 13/2020-State Tax (37) dated 31-3-2020 effective from 30-7-2020
(98) 06-08-20	GST	Notification u/s 2(99) of C.G. GST Act, 2017 appointing revisional authority w.e.f. 13-1-2020.
(99) 07-09-20	VAT	Notification u/s 71(1) of C.G. Vat Act, 2005 amending C.G. Value Added Tax Rules relating to communication to e-mail address
(100) 15-09-20	GST	Notification u/s 1(3) of Chhattisgarh Goods and Services Tax (Amendment) Act, 2020 appointing 1-9-2020 the date from which the provisions of Section 10 of the said Act, shall come into force
(101) 15-09-20	GST	Notification u/s 148 of C.G. GST Act, 2017 extending the due date for filing FORM GSTR-4 for financial year 2019-2020 to 31-10-2020 w.e.f. 31-8-2020

**2021) Gist of GST Chhattisgarh Notifications - 2020 45**

<b>Noti. No.</b>	<b>Act</b>	<b>Particulars (Chhattisgarh)</b>
<b>(102)</b> 15-09-20	GST	Chhattisgarh Goods and Services Tax (Tenth Amendment) Rules, 2020 w.e.f. 20-8-2020
<b>(103)</b> 13-10-20	GST	Notification u/s 148 of C.G. GST Act, 2017 notifying a special procedure for taxpayers for issuance of e-Invoices for the period 1-10-2020 to 31-10-2020 w.e.f. 1-10-2020
<b>(104)</b> 13-10-20	GST	Notification u/r 46 of C.G. GST Rules, 2017 amending No. 14/ 2020-State Tax (38) dated 31-3-2020 extending the date of implementation of the Dynamic QR Code for B2C invoices till 1-12-2020 w.e.f. 30-9-2020
<b>(105)</b> 13-10-20	GST	Chhattisgarh Goods and Services Tax (Eleventh Amendment) Rules, 2020 w.e.f. 30-9-2020
<b>(106)</b> 13-10-20	GST	Notification u/s 44(1) r/w Rule 80 of C.G. GST Act, 2017 amending No. 41/2020-State Tax (71) dt. 8-5-2020 to extend due date of return till 31-10-2020 w.e.f. 30-9-2020
<b>(107)</b> 13-10-20	GST	Notification u/r 48(4) of C.G. GST Rules, 2017 amending No. 13/2020-State Tax (37) dt. 31-3-2020 w.e.f. 30-9-2020
<b>(108)</b> 13-10-20	GST	Notification u/s 128 r/w 148 of C.G. GST Act, 2017 amending No. 73/2017-CT (187) dated 29-12-2017 granting waiver / reduction in late fee for not furnishing FORM GSTR-4 for 2017-18 and 2018-19, subject to the condition that the returns are filed between 22-9-2020 to 31-10-2020 w.e.f. 21-9-2020



Noti. No.	Act	Particulars (Chhattisgarh)
(109) 13-10-20	GST	Notification u/s 128 of C.G. GST Act, 2017 granting waiver / reduction in late fee for not furnishing FORM GSTR-10, subject to the condition that the returns are filed between 22-9-2020 to 31-12-2020 w.e.f. 21-9-2020
(110) 28-10-20	GST	Notification u/s 9(3)(4), 11(1), 15(5) and 148 of C.G. GST Act, 2017 amending No. 12/2017-State Tax (Rate) (80) dated 28-6-2017 exempting satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42nd meeting held on 5-10-2020 w.e.f. 26-10-2020
(111) 28-10-20	GST	Notification u/s 148 of C.G. GST Act, 2017 prescribing the due date for furnishing FORM GSTR-1 for the quarters October, 2020 to December, 2020 and January, 2021 to March, 2021 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year w.e.f. 15-10-2020
(112) 28-10-20	GST	Notification u/s 37(1) r/w 168 of C.G. GST Act, 2017 prescribing the due date for furnishing FORM GSTR-1 by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2020 to March, 2021 w.e.f. 15-10-2020
(113) 28-10-20	GST	Noti. u/s 168 of C.G. GST Act, 2017 r/w Rule 61(5) prescribing return in FORM GSTR-3B along with due dates of furnishing the said form for October, 2020 to March, 2021 w.e.f. 15-10-2020

Noti. No.	Act	Particulars (Chhattisgarh)
(114) 28-10-20	GST	Notification u/s 148 of C.G. GST Act, 2017 amending No. 47/ 2019 - ST (103) dated 9-10-2019 making filing of annual return u/ s 44(1) for F.Y. 2019-20 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date
(115) 28-10-20	GST	Notification u/r 46 of C.G. GST Rules, 2017 notifying the number of HSN digits required on tax invoice w.e.f. 1-4-2021
(116) 28-10-20	GST	C.G. Goods and Services Tax (Twelveth Amendment) Rules, 2020 effective from 15-10-2020
(117) 19-11-20	GST	Notification u/s 44(1) of C.G. GST Act, 2017 amending No. 41/ 2020-State Tax (71) dt. 8-5-2020 extending due date of return till 31-12-2020 w.e.f. 28-10-2020
(118) 19-11-20	GST	Notification u/s 168A of C.G. GST Act, 2017 extending due date of compliance which falls during the period from 20-3-2020 to 29-6-2020 till 30-6-2020 and to extend validity of e-way bills w.e.f. 20-3-2020
(119) 19-11-20	GST	Notification u/s 1(2) of Chhattisgarh Goods and Services Tax (Amendment) Act, 2020 bringing into force Section 11 of said Act in order to bring amendment in Section 140 of C.G. GST Act w.e.f. 18-5-2020
(120) 19-11-20	GST	Notification u/s 168A of CGST Act, 2017 extending period to pass order under Section 54(7) of C.G. GST Act w.e.f. 20-3-2020
(121) 19-11-20	GST	Notification u/s 1(2) of Chhattisgarh Goods and Services Tax (Amendment) Act, 2020 bringing into force Sections 2 and 13 of said Act

Noti. No.	Act	Particulars (Chhattisgarh)
(133) 24-12-20	VAT	Regular Assessment (Extension of time limit for assessment for the year 2015-16 Such dealer whose turnover is not more than 1 crore)
(134) 24-12-20	VAT	Regular Assessment (Extension of time limit for assessment for the year 2015-16 Such dealer whose turnover is more than 1 crore)
(135) 24-12-20	VAT	Extension of time limit for FORM-18 Part-C, Year 2016-17
(136) 24-12-20	VAT	Extension of time limit for FORM-18 ,Year 2016-17
(137) 29-12-20	VAT	Extension of time limit for Form-18, Year 2017-18
(138) 29-12-20	VAT	Extension of time limit for Form-18, Year 2017-18
(139) 29-12-20	VAT	Extension of time limit for assessment, Year 2017-18



*See full Notifications on [www.dineshgangrade.com](http://www.dineshgangrade.com)  
[For TLD Subscribers only]*

# Volume 66 2021

# TAX LAW DECISIONS

## REPORTS

**Full Reports Notes on Reported and  
Unreported Cases Entries of Schedule,  
AAR, Interpretation of Statutes Words  
& Phrases**

**(2021) 66 TLD 1**

In the High Court of M.P.

Hon'ble Sanjay Yadav, Acting CJ. & Vijay Kumar Shukla, J.

**Pratik Jain**

**Vs.**

**State of Madhya Pradesh & others**

Writ Petition No. : 17754/2020

December 1, 2020

***Deposition : In favour of Department***

**Writ petition - Appeals to Appellate Authority - Section 107 of  
M.P. GST Act, 2017 - The M.P. High Court dismissed the petition  
directly filed against the order appealable u/s 107.**

**Writ petition dismissed**

Shri Arjun Prasad Shrivastava, learned counsel for the Petitioner.

Shri Pushpendra Yadav, learned Additional Advocate General for the  
respondent No.1 and 4 on advance notice.

**:: ORDER ::**

The Order of the Court was made by **SANJAY YADAV, ACTING  
CHIEF JUSTICE :**

Petitioner, a registered tax payer under the Goods and Services Tax  
Act, owns a dealership of Skoda Car and is engaged in the sales of cars

and service. The grievance of the petitioner is that having been subjected to summons under Section 70 of the Central Goods and Services Tax Act, 2017, simultaneously the petitioner is subjected to intimation by Assistant Commissioner of State Tax Division-I, Jabalpur Zone in Form GST DRC-01A for all three years wherein the amount payable by the petitioner was determined. It is contended that the intimation by respondent No.4 is *per se* illegal when tested on the anvil of the letter No.DOF No.CBEC/20/43/01/2017-GST (Pt.) dated 5-10-2018 issued by the Central Board of Excise and Customs.

2. It is noticed from the pleadings that the petitioner was subjected to show cause notice under Section 74 of Madhya Pradesh Goods and Services Tax Act, 2017 which culminated into a final order on 30-9-2020.

3. It being not disputed that the order is appealable under Section 107 of the Central Goods and Services Tax Act, 2017 and merely because the petitioner has to pre-deposit, therefore, instead of appeal present petition is filed, we are not inclined to cause indulgence. Sub-sections (5) and (6) of Section 107 clearly stipulates:

“Section 107. (5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten percent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.”

4. That being a legislative command, we decline to turn the same into dead letter by entertaining the present writ petition.

5. Consequently, petition fails and is dismissed. However, dismissal of the petition in limine will not cause any prejudice to the petitioner invoking Section 107 of the Central Goods and Services Tax Act, 2017.



2021) The Indian Hum Pipe Co. Vs. State of M.P. (MP) 3

(2021) 66 TLD 3

In the High Court of M.P.  
Hon'ble R.S. Jha & A.K. Joshi, JJ.  
**The Indian Hum Pipe Company Limited**  
**Vs.**  
**The State of Madhya Pradesh & Others**  
W.P. No.: 6873/2016  
March 16, 2017

*Deposition : In favour of Petitioner*

**Writ petition - Assessment order - The M.P. High Court in view of the exceptional facts and circumstances entertained the petition against the order of assessment directly and remanded the matter back to the Assessing Authority.**

**Writ petition allowed**

Shri G.N. Purohit, learned Senior Counsel with Shri Abhishek Oswal for the petitioner.

Shri Deepak Awasthi, learned Govt. Advocate for the respondent/State.

**:: ORDER ::**

Heard.

The petitioner has filed this petition being aggrieved by order dated 16-1-2016 passed by the Assessing Officer under the provisions of the M.P. Value Added Tax Act, 2002 (hereinafter referred to as 'the M.P. VAT Act, 2002') for the Assessment Year 1-4-2013 to 31-3-2014.

The petitioner has entered into a contract with the respondent Bhopal Municipal Corporation for providing, laying, joining, testing and commissioning of various diameters (HDPE) (PE-100 grade 6Kg/SqCm)/DI K-7 Pipes with all fittings, specials, interconnection and other appurtenant works, etc. complete in gas effected areas in Bhopal city under the Jawaharlal Nehru Urban Renewable Mission.

It is submitted by the learned Senior Counsel for the petitioner that in execution of the aforesaid work contract the petitioner had made purchases of several items including pipes, fittings, etc. from the dealers situated in the State of Andhra Pradesh and West Bengal. It is submitted that during the previous years such purchases were treated as inter-state sales by the Appellate Authorities for the Assessment Years of 2011-12 and 2012-13.

He has filed orders of the Appellate Authority alongwith the petition as Annexure P-3. It is submitted that inspite of the fact that the Appellate Authority, in the previous Assessment Years, has held such sales to be inter-state sales, the Assessment Authority in the year 2013-14 has treated similar purchases as inter-state sales and assessed the petitioner to tax under the provisions of the M.P VAT Act, 2002.

It is submitted that the impugned order of assessment is contrary to law as the Assessing Authority has totally ignored the cardinal principle that the orders passed by the higher authority have binding force, by ignoring the orders passed by the appellate authority in respect of the previous Assessment Years and has also not considered the impact of the same. It is stated that the authority has not applied its mind to the various facts and documents brought on record by the petitioner to establish that the sale in question was an inter-state sale and is not liable to tax under the provisions of the M.P. VAT Act, 2002.

The learned Govt. Advocate, per contra, on the strength of the return filed by them, submits that the Assessing Authority has rightly considered the facts of the case and has arrived at a conclusion that the sales are inter-state sales and are liable to tax under the VAT Act, 2002. The learned Govt. Advocate submits that the Assessing Authority has taken into consideration the facts prevailing in the case for arriving at its conclusion and, therefore, no interference is called for in the impugned order of assessment passed by the Assessing Authority. The learned Govt. Advocate submits that even otherwise the petition, filed by the petitioner, is not maintainable as the petitioner has an alternative efficacious statutory remedy of filing an appeal against the impugned order of assessment and, therefore, the petition filed by the petitioner deserves to be dismissed.

We have heard the learned counsel for the parties at length. Though, normally we would not have entertained the present petition on account of availability of the alternative efficacious statutory remedy of an appeal under the statutory provisions of the M.P. VAT Act, 2002, nor can we entertain the arguments of the petitioner in respect of the seriously disputed questions of fact that have been advanced before us in the present petition. However, while perusing the impugned order passed by the Assessing Authority it is observed that the Assessing Authority has neither considered the orders passed by the Appellate Authority in respect of the previous years of assessment holding similar sales to be inter-state sales nor has the Assessing

**2021) The Indian Hum Pipe Co. Vs. State of M.P. (MP) 5**

Authority given any reasons for distinguishing the orders passed by the Appellate Authority on the basis of the facts prevailing in the present case. A perusal of the impugned order of assessment indicates total non-application of mind by the Assessing Authority to these vital issues.

We are constrained to emphatically state that the inherent discipline required to be adhered to by the authority concerned regarding applying and following the orders and decisions of the higher authorities has to be given due weightage and respect as in case we permit the assessing authority to totally ignore the orders passed by the appellate authority and higher authorities it would lead to chaos and total uncertainty. We are also of the considered opinion that the Assessing Officer, in the present case, has not applied its mind to the facts of the case for the purposes of distinguishing the decision of the Appellate Authority which it was mandatorily required to do. Apparently, the terms and conditions under which the sale and purchase of the items from out of State were made by the petitioner have also not been taken into consideration while arriving at a conclusion.

In view of the aforesaid exceptional facts and circumstances of the case and on account of the aforesaid reasons, we entertain the petition filed by the petitioner against the order of assessment directly before this Court in writ proceedings as an exception. However, as seriously disputed question of facts are involved in the present case and which cannot be looked into and gone into by us in the present proceedings under Article 226 of the Constitution of India, therefore, we propose to remand the matter back to the Assessing Authority for considering and deciding the matter again after taking into consideration the aforesaid aspects which we have elaborated in the preceding paragraphs.

For the aforesaid purpose the impugned order of assessment passed by the Assessing Officer is set aside and the matter is directed to be taken up again by the Assessing Authority, deciding the matter afresh and for passing an order of assessment after taking into consideration the aspects that have been noted by this Court in the preceding paragraphs and all other issues that may be raised by the petitioner before it.

Looking to the fact that the matter is required to be decided at an early date, the petitioner is directed to appear before the Assessing Authority on **6-4-2017** and on such other dates as may be fixed by the authority. The Assessing authority is directed to complete the assessment proceedings within



a month thereafter.

It goes without saying that the petitioner would be at liberty to place all facts and law before the Assessing authority for the purposes of assisting it in arriving at a conclusion in the matter.

It is made clear that this Court has not expressed any opinion on the merits of the case and, therefore, while remanding the matter, it is observed that the Appellate Authority would be at liberty to take any decision that it thinks fit, i.e. either accepting or rejecting the contention of the petitioner and would also be at liberty to consider all necessary facts and also to call for additional facts and materials from the parties, however, the appellate authority would be required to give detailed reasons for its conclusions.

With the aforesaid direction and observation the petition filed by the petitioner stands allowed and disposed of.

□

(2021) 66 TLD 6

In the High Court of M.P.  
Hon'ble Ravi Shankar Jha & Ashok Kumar Joshi, JJ.

**The Indian Hum Pipe Company Limited, Bhopal**

**Vs.**

**The State of Madhya Pradesh**

Writ Petition No. : 4501-2017

April 3, 2017

***Deposition : In favour of Petitioner***

**Writ petition - Assessment order - The M.P. High Court in view of its own order and looking to the exceptional facts and circumstances entertained the petition against the order of assessment directly and remanded the matter back to the Assessing Authority.**

**Writ petition allowed**

**Cases referred :**

\* The Indian Hum Pipe Company Limited Vs. The State of Madhya Pradesh  
(2021) 65 TLD ... (MP)

Shri G.N. Purohit, learned senior counsel with Shri Abhishek Oswal, for the petitioner.

Shri S.D. Tiwari, learned Dy. A.G. for the State.

**:: ORDER ::**

Heard.

It is agreed by the learned counsel for the parties that the issue involved in the present petition is identical to the issue involved in W.P. No. 6873/2016 decided on 16-3-2017. The learned counsel for the parties agree that the present petition be also disposed of in the similar terms.

In view of the aforesaid submissions of the learned counsel for the parties, the present petition is disposed of in similar terms of W.P. No. 6873/2016 which was decided in the following terms:-

“The petitioner has filed this petition being aggrieved by order dated 16-1-2016 passed by the Assessing Officer under the provisions of the M.P. Value Added Tax Act, 2002 (hereinafter referred to as ‘the M.P VAT Act, 2002’) for the Assessment Year 1-4-2013 to 31-3-2014.

The petitioner has entered into a contract with the respondent Bhopal Municipal Corporation for providing, laying, joining, testing and commissioning of various diameters (HDPE) (PE-100 grade 6Kg/SqCm)/DI K-7 Pipes with all fittings, specials, interconnection and other appurtenant works, etc. complete in gas effected areas in Bhopal city under the Jawaharlal Nehru Urban Renewable Mission.

It is submitted by the learned Senior Counsel for the petitioner that in execution of the aforesaid work contract the petitioner had made purchases of several items including pipes, fittings, etc. from the dealers situated in the State of Andhra Pradesh and West Bengal. It is submitted that during the previous years such purchases were treated as inter-state sales by the Appellate Authorities for the Assessment Years of 2011-12 and 2012-13. He has filed orders of the Appellate Authority alongwith the petition as Annexure P-3. It is submitted that inspite of the fact that the Appellate Authority, in the previous Assessment Years, has held such sales to be inter-state sales, the Assessment Authority in the year 2013-14 has treated similar purchases as inter-state sales and assessed the petitioner to tax under the provisions of the M.P VAT Act, 2002.

It is submitted that the impugned order of assessment is contrary to law as the Assessing Authority has totally ignored the cardinal principle

that the orders passed by the higher authority have binding force, by ignoring the orders passed by the appellate authority in respect of the previous Assessment Years and has also not considered the impact of the same. It is stated that the authority has not applied its mind to the various facts and documents brought on record by the petitioner to establish that the sale in question was an inter-state sale and is not liable to tax under the provisions of the M.P. VAT Act, 2002.

The learned Govt. Advocate, per contra, on the strength of the return filed by them, submits that the Assessing Authority has rightly considered the facts of the case and has arrived at a conclusion that the sales are inter-state sales and are liable to tax under the VAT Act, 2002. The learned Govt. Advocate submits that the Assessing Authority has taken into consideration the facts prevailing in the case for arriving at its conclusion and, therefore, no interference is called for in the impugned order of assessment passed by the Assessing Authority. The learned Govt. Advocate submits that even otherwise the petition, filed by the petitioner, is not maintainable as the petitioner has an alternative efficacious statutory remedy of filing an appeal against the impugned order of assessment and, therefore, the petition filed by the petitioner deserves to be dismissed.

We have heard the learned counsel for the parties at length. Though, normally we would not have entertained the present petition on account of availability of the alternative efficacious statutory remedy of an appeal under the statutory provisions of the M.P. VAT Act, 2002, nor can we entertain the arguments of the petitioner in respect of the seriously disputed questions of fact that have been advanced before us in the present petition. However, while perusing the impugned order passed by the Assessing Authority it is observed that the Assessing Authority has neither considered the orders passed by the Appellate Authority in respect of the previous years of assessment holding similar sales to be inter-state sales nor has the Assessing Authority given any reasons for distinguishing the orders passed by the Appellate Authority on the basis of the facts prevailing in the present case. A perusal of the impugned order of assessment indicates total non-application of mind by the Assessing Authority to these vital issues.

We are constrained to emphatically state that the inherent discipline required to be adhered to by the authority concerned regarding

**2021) The Indian Hum Pipe Co. Vs. State of M.P. (MP) 9**

applying and following the orders and decisions of the higher authorities has to be given due weightage and respect as in case we permit the assessing authority to totally ignore the orders passed by the appellate authority and higher authorities it would lead to chaos and total uncertainty. We are also of the considered opinion that the Assessing Officer, in the present case, has not applied its mind to the facts of the case for the purposes of distinguishing the decision of the Appellate Authority which it was mandatorily required to do. Apparently, the terms and conditions under which the sale and purchase of the items from out of State were made by the petitioner have also not been taken into consideration while arriving at a conclusion.

In view of the aforesaid exceptional facts and circumstances of the case and on account of the aforesaid reasons, we entertain the petition filed by the petitioner against the order of assessment directly before this Court in writ proceedings as an exception. However, as seriously disputed question of facts are involved in the present case and which cannot be looked into and gone into by us in the present proceedings under Article 226 of the Constitution of India, therefore, we propose to remand the matter back to the Assessing Authority for considering and deciding the matter again after taking into consideration the aforesaid aspects which we have elaborated in the preceding paragraphs.

For the aforesaid purpose the impugned order of assessment passed by the Assessing Officer is set aside and the matter is directed to be taken up again by the Assessing Authority, deciding the matter afresh and for passing an order of assessment after taking into consideration the aspects that have been noted by this Court in the preceding paragraphs and all other issues that may be raised by the petitioner before it.

Looking to the fact that the matter is required to be decided at an early date, the petitioner is directed to appear before the Assessing Authority on **6-4-2017** and on such other dates as may be fixed by the authority. The Assessing authority is directed to complete the assessment proceedings within a month thereafter.

It goes without saying that the petitioner would be at liberty to place all facts and law before the Assessing authority for the purposes of assisting it in arriving at a conclusion in the matter.

It is made clear that this Court has not expressed any opinion on the merits of the case and, therefore, while remanding the matter, it is observed that the Appellate Authority would be at liberty to take any decision that it thinks fit, i.e. either accepting or rejecting the contention of the petitioner and would also be at liberty to consider all necessary facts and also to call for additional facts and materials from the parties, however, the appellate authority would be required to give detailed reasons for its conclusions.

With the aforesaid direction and observation the petition filed by the petitioner stands allowed and disposed of.”

The present petition is accordingly disposed of in the similar terms and directions and for the reasons that have been mentioned in the aforesaid order dated 16-3-2017 in W.P. No. 6873/2016 which shall be read as part of this order.



(2021) 66 TLD 10

In the High Court of Allahabad  
Hon'ble Manoj Kumar Gupta, J.

**Polo International**

**Vs.**

**State of U.P. and 2 Others**

Writ Tax No. : 291 of 2020

June 8, 2020

*Deposition : In favour of Petitioner*

**Appeals to Appellate Tribunal - Section 112 of CGST Act, 2017**  
**- The High Court disposed of the petition by providing that the petitioner can invoke the remedy of filing appeal before the Tribunal in terms of the provisions of the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019.**

**Writ petition disposed of**

Rishi Raj Kapoor for the petitioner.

C.S.C. for the respondent.

**:: ORDER ::**

Heard Sri Rishi Raj Kapoor, learned counsel for the petitioner and Sri B.K. Pandey, learned Standing Counsel for the State respondents.

The petitioner has preferred the instant petition under Article 226 of the Constitution challenging the order dated 26-11-2019 passed in Appeal No.GST-03/19 by respondent no.2 under Section 129 (3) of the U.P. G.S.T. Act and C.G.S.T. Act, 2017/ Section 20 of the IGST Act, 2017 and tax and penalty order No.228 dated 5-9-2018 passed by respondent no.3 under Section 129 (3) of the U.P. G.S.T. Act and C.G.S.T. Act, 2017/ Section 20 of the IGST Act, 2017 and has also prayed for a direction to respondent no.3 to refund the amount of Rs.31,304/- deposited at the time of filing of appeal before respondent no. 2.

It is not disputed that the impugned orders are appealable under Section 112 of the C.G.S.T. Act, 2017. The appeal is to be filed within 90 days from the date on which the order sought to be appealed is communicated to the person preferring the appeal.

The instant petition has been filed bye-passing the remedy of appeal under Section 112 of the Act on the ground that the appellate tribunal has not been constituted till date.

It has been pointed out by learned standing counsel that the Government, having regard to the difficulty faced by the assesseees in filing appeal on account of non-constitution of the Tribunal and its Benches in various States and Union Territories, has issued Central Goods and Service Tax (Ninth Removal of Difficulties) Order, 2019 notified in the Gazette of India dated 3rd December, 2019 stipulating that in such a situation, the three months' period shall be considered to be the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under Section 109, enters office. It is urged that in such circumstances, the petitioner can wait and avail the remedy of filing appeal as and when the Tribunal is constituted. It is also pointed out that since the seized goods have already been released, therefore, no prejudice is going to be caused to the petitioner at the present moment.

Learned counsel for the petitioner very fairly admits the above legal position and also the fact that the goods have already been released.

In view of the above, the instant petition is disposed of by providing that the petitioner can invoke the remedy of filing appeal before the Tribunal in terms of the provisions of the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019.

□

(2021) 66 TLD 12

In the High Court of M.P.  
Hon'ble S.K. Seth & Smt. Anjuli Palo, JJ.

**Goldie Glass Industries**

**Vs.**

**State of M.P. and others**

Writ Petition No. : 7536/2014

August 18, 2017

*Deposition : In favour of Petitioner*

**Revision suo-motu - Section 47(2) of M.P. VAT Act, 2002 - Power of revision by Commissioner - The order passed by the Dy. Commissioner of Commercial Tax (Appeal) is final and is not amenable to suo-motu revisional powers conferred by Section 47 of the Act.**

**Writ petition allowed**

Shri G.N.Purohit, Senior Advocate with Shri Abhishek Oswal, Advocate for the petitioner.

Shri Samdarshi Tiwari, Dy. Advocate General for respondents.

**:: ORDER ::**

The Order of the Court was made by **S.K. SETH, J. :**

Is the order passed by the Dy. Commissioner of Commercial Tax Appeal amenable to *suo-motu* revision by the Additional Commercial Commissioner under Section 47 (2) of the M.P. Value Added Tax Act (for short, 'VAT Act')?

2. This question falls for our consideration on the following facts. Petitioner, a proprietary concern, is a registered dealer and engaged in the manufacture of High Glass Putty; Frosted Designs on Glass and Plastic Aluminium Composite, Laminated Panel Sheets. For the assessment year 2008-2009, it was assessed to VAT @ 4% as per Entry 36A of Part-II of Schedule-II on Aluminium Composite Panel. The said assessment was reopened under Section 21(1) of the VAT Act on the ground of short levy of Tax on Aluminium Composite Panel, which was liable to be taxed under residuary entry @ 12.5%. Accordingly, reassessment was framed raising an additional demand of Rs. 5,81,234/- on account of difference in the rate of tax. The matter was carried in appeal to Dy. Commissioner (Appeal) who deleted the levy of additional tax vide order dated 14-9-2011.

**2021) Goldie Glass Industries Vs. State of M.P. (MP) 13**

3. Respondent No. 3 i.e. Additional Commissioner of Commercial Tax under Section 47(2) of the VAT Act issued notice dated 9-1-2014 to the petitioner to show cause against the exercise of the *suo-motu* power of revision against the order passed by Dy. Commissioner of Commercial Tax (Appeal). In response, petitioner submitted that the order passed by the Dy. Commissioner of Commercial Tax (Appeal) was not amenable to *suo-motu* revision under Section 47 (2) of the VAT Act. This objection was, however, overruled vide impugned order, hence this petition.

4. We have heard the rival submissions and perused the material available on record. But before we advert to the question, it is relevant to notice certain provisions of the VAT Act, which have a direct bearing on the controversy. For ready reference relevant provisions are reproduced herein below:-

**“3. Taxing Authorities and other Officers**

(1) There may be appointed a person to be the Commissioner of Commercial Tax and the following category of officers to assist him, namely:

(a) Additional Commissioner of Commercial Tax; <sup>1</sup>(b)

(c) Deputy Commissioner or Additional Deputy Commissioner of Commercial Tax;

(d) Assistant Commissioner or Additional Assistant Commissioner of Commercial Tax;

(e) Commercial Tax Officer or Additional Commercial Tax Officer;

(f) Assistant Commercial Tax Officer; and

(g) Inspector of Commercial Tax.

---

1. Deleted vide MP Vat (Amendment) Act, 2006 (No.12 of 2006)-w.e.f. the 31st March, 2006

**<sup>2</sup>3A. Appellate Authority**

The State Government may, by order, appoint any officer not below Deputy Commissioner of Commercial Tax as Appellate Authority.

2. Inserted vide MP Vat (Amendment) Act, 2006 (No.12 of 2006)-w.e.f. the 31st March, 2006



**46 : Appeal** (1) Any dealer or person aggrieved by an order passed under this Act, by any officer specified in clause (c) to (f) <sup>3</sup>of sub-section (1) of section 3 may, in the prescribed manner, appeal against such order to the Appellate Authority:

3. *Clause (b) omitted vide MP Vat (Amendment) Act, 2006 (No.12 of 2006)- w.e.f. the 31st March, 2006*

**47 : Power of revision by Commissioner :**

(1) The Commissioner on his own motion may call for the record of the proceeding in which any order was passed by any officer specified in clauses (c) to (f) <sup>4</sup>of sub-section (1) of section 3 and on receipt of the record may make such enquiry or cause such enquiry to be made, as he considers necessary and subject to the provisions of this Act, after giving the dealer an opportunity of being heard, may, pass such order thereon, not being an order prejudicial to the dealer or person, as he thinks fit within six months from the date of initiation of proceedings :

4. *clause (b) omitted vide MP Vat (Amendment) Act, 2006 (No.12 of 2006)- w.e.f. the 31st March, 2006."*

5. Bare perusal of provisions quoted above would reveal that Section 3 deals with appointment of the Commissioner and officers to assist him as taxing authority. Prior to M.P. VAT (Amendment) Act, 2006, clause (b) of Section 3 dealt with the Dy. Commissioner of Commercial Tax (Appeal) as one of the Officer to assist the Commissioner, but after the amendment, it ceased to exist in Section 3 of the Act. Simultaneously, Section 3A was inserted in the Statute to provide for appointment of Appellate Authority by the State Government not below the rank of Deputy Commissioner of Commercial Tax. It is further clear from Sections 46 and 47 that from the order of Dy. Commissioner of Commercial Tax (Appeal), no further appeal or revision lies. In other words, the order passed by the Dy. Commissioner of Commercial Tax (Appeal) is final and is not amenable to *suo-motu* revisional powers conferred by Section 47 of the Act.

6. In view of the foregoing discussion, in the back drop of statutory provisions, we have no hesitation to answer the question in favour of the petitioner and against the revenue. Even otherwise, it is well established that every taxing statute must be read according to the natural construction of

2021)      **Pradeep Chand Maloo Vs. CCT, M.P. (MP)**      15

its words. It is now well established that if a person sought to be taxed comes within the letter of the law, he must be taxed. On the other hand, if the revenue is to recover tax, cannot bring the subject within the letter of law, the subject is free, however apparently within the spirit of law the case might otherwise appear to be.

7. The up shot of whole discussion is that the impugned show cause notice dated 9-1-2014 (Annexure-P/7) and the order impugned dated 30-4-2014 (Annexure-P/9) are hereby quashed. Writ Petition is **allowed** with cost of Rs. 10,000/-.

8. Ordered accordingly.



(2021) 66 TLD 15

In the High Court of M.P.  
Hon'ble R.S. Jha & A.K. Joshi, JJ.

**Pradeep Chand Maloo**  
**Vs.**

**The Commissioner of Madhya Pradesh**

Writ Petition No. : 5208/2017

April 7, 2017

*Deposition : In favour of Petitioner*

**Attachment of Bank Account - The Bank attached the Account in view of the orders of Departmental Authorities - The High Court remanded the matter to the departmental authority for deciding the matter on merits and till such exercise is completed the Bank Account shall not be attached nor shall any recovery be made therefrom and he shall be permitted to operate the same.**

**Writ petition disposed of**

Shri G. N. Purohit, LS Counsel with Shri Abhishek Oswal for the petitioner.  
Shri Deepak Awasthy learned Govt. Advocate for the respondent/State.

**:: ORDER ::**

Heard on the question of admission and interim relief.

The petitioner has filed this petition being aggrieved by the intimation sent by the respondent Bank to the petitioner regarding attachment of the petitioner's bank account on account of the notices issued by the authorities under the provisions of Section 28(1) of the M.P. VAT Act.

The learned Senior Counsel for the petitioner submits that the petitioner has left the firm M/s Sonali Soya Product, Partala, District Chhindwara on 31-1-2002 and a fresh partnership deed excluding the petitioner was drawn up on 1-2-2002. It is submitted by the learned Senior Counsel that though the firm continued under the same name, however the petitioner had nothing to do with it since 2002. It is submitted that subsequently the firm got itself converted into a company in June 2002 and got itself registered in the name of M/s Sonali Soya Product Private Ltd.

It is submitted that the aforesaid company was subjected to assessment for the period 1-4-2002 to 31-3-2003 and was assessed to tax by the concerned authority. It is submitted that it appears that the company did not pay its dues as a result of which the authorities, without taking note of the fact that the petitioner had nothing to do with the said company has issued a notice under section 28(1) of the M.P. VAT Tax, pursuant to which the Bank authorities have attached his account. The learned Senior Counsel submits that the aforesaid action has been taken by the authorities without giving any opportunity of hearing to the petitioner, without serving the petitioner with any notice or without considering the aforesaid aspect and in such circumstances the impugned orders and the intimation by the Bank be quashed and the petitioner's Bank account be released.

The learned Govt. Advocate appearing for the respondent/State submits that the petitioner has approached this Court without filing any reply or representation before the authority concerned who have yet to apply their mind to the issues raised by the petitioner and in such circumstances the petition, filed by the petitioner, being premature deserves to be dismissed.

We have heard the learned counsel for the parties at length. From a perusal of the record it is apparent that the issues raised by the petitioner before this Court have not been placed by him or raised by him before the authorities under the M.P. VAT Act. It also appears from the notices annexed by the petitioner alongwith the petition on pages 17 & 18 which are the notices and orders issued under section 28 of the M.P. Vat Act, that they have been issued to the HDFC Bank and have not been issued to the petitioner. It is, therefore, apparent that as the issues raised by the petitioner have not been placed before the authorities, there is no application of mind by them in that regard.

In the circumstances the petition filed by the petitioner is disposed of with a direction to the effect that the petitioner shall file a representation/reply

2021)                      **Kothari Associates Vs. State of U.P. (All)**                      17

before the concerned authorities under the MP VAT Act within three days alongwith a copy of the order passed today and a copy of the petition and in case the petitioner does so, the authority concerned shall thereafter examine the contention of the petitioner, consider the same and after passing a reasoned order, take further action in accordance with law.

It is further directed that till such exercise is completed by the authority concerned, the petitioner's Bank Account shall not be attached nor shall any recovery be made therefrom and he shall be permitted to operate the same.

It is however made clear that this Court has not expressed any opinion on the merits of the case or the entitlement of the petitioner and, therefore, the authorities would be at liberty to examine the matter keeping all facts and facets into consideration as well as the law and thereafter take an independent decision in the matter either in favour or against the petitioner.

It also goes without saying that the interim arrangement made by this Court would be subject to the orders passed by the authority concerned.

With the aforesaid direction the petition filed by the petitioner stands disposed of.

□

**(2021) 66 TLD 17**

In the High Court of Allahabad  
Hon'ble Rohit Ranjan Agarwal, J.  
**Kothari Associates**  
**Vs.**

**State of U.P. And 2 Others**  
Writ Tax No. : 383 of 2020  
October 15, 2020

***Deposition : In favour of Petitioner***

**Writ petition - Appeals to Appellate Authority - Section 107 of CGST Act, 2017 - Remedy of appeal u/s 107 not availed within the statutory limit - The High Court in view of Polo International Vs. State of U.P. (2021) 66 TLD 10 disposed of the petition by providing that the petitioner can invoke the remedy of filing appeal before the Tribunal in terms of the provisions of the CGST (Ninth Removal of Difficulties) Order, 2019.**

**Writ petition disposed of**

**Cases referred :**

- \* Assistant Commissioner (CT) LTU Kakinada and others Vs. M/s. Glaxo Smit Kline Consumer Health Care Limited, Civil Appeal No. 2413 of 2020
- \* Central Industrial Security Force Vs. Commissioner of Central Goods and Service Tax and Central Excise and two others Writ-Tax No. 822 of 2018 decided on 23-5-2018
- \* Commissioner of Custom and Central Excise Noida Vs. M/s. Punjab Fibres Limited, JT 2008 (2) SC 458
- \* Jindal Pipes Limited Vs. State of U.P. and three others Writ-Tax No. 1366 of 2019
- \* Polo International Vs. State of U.P. and others (2021) 66 TLD 10 (All) Writ-Tax No. 291 of 2020
- \* Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others, 2008 NTN (36) 9

Rakesh Kumar for the petitioner.

C.S.C. for the respondent.

**:: ORDER ::**

1. This writ petition has been filed assailing the order dated 21-11-2019 whereby the appeal filed by the petitioner challenging the order passed under Section 129 (3) of the U.P. G.S.T. Act 2017 has been dismissed by the Additional Commissioner, Grade-II, (Appeal)-I, Commercial Tax, Noida, the order dated 14/08/2018 passed under Section 129 (3) of the U.P. G.S.T. Act 2017/C.G.S.T./I.G.S.T. Act, 2017 whereby a tax of Rs. 3,52,800/- alongwith penalty of Rs. 3,52,800/- and interest at the rate of 18% total amount of Rs. 705600/- has been imposed against the petitioner. Further a prayer has been made for the refund of the amount of penalty of Rs. 3,52,800/-.

2. Facts, in nutshell, are that petitioner, who is a registered dealer under the provisions of GST Act, is in the business of buying and selling plastic granules (PP). Petitioner's firm had purchased 20,000 Kilograms of plastic granules from one M/s. H.K. Trading Company, New Delhi to be sent to M/s. Priaymbada Industries Private Limited, Gorakhpur. While the goods were on their way to Gorakhpur through Vehicle No. U.P. 53 DT 3455, on 11-8-2019 the vehicle in question was intercepted by the mobile squad of Tax Department at Sikandara Toll Plaza, and when the documents were inspected various discrepancies and anomalies were found in the documents pertaining to the goods loaded in the vehicle. The vehicle in question was

2021)

**Kothari Associates Vs. State of U.P. (All)**

19

detained and notice was issued to the petitioner under Section 20 of the I.G.S.T. Act, 2017 read with Section 68 (3) of the C.G.S.T. Act. A reply was submitted, but the same not being found in order, on 14-8-2018 the authorities concerned imposed a tax of Rs. 3,52,800/- and also levied penalty of the same amount of Rs. 3,52,800/-. The said order was served upon the driver of the vehicle and the entire amount of Rs. 7,05,600/- was deposited on the same date itself i.e. 14-8-2018 and the goods and vehicle in question were released.

3. It appears that after a delay of about eight months the order dated 14-8-2018 was challenged by the petitioner before first Appellate Authority on 16-7-2019, on the ground that as the copy of order and demand was not reflected on the web portal of the taxing authorities and driver of the vehicle has not informed about the order and demand made from the said order, the same could not be challenged within statutory period. On 21-11-2019 the first Appellate Authority rejected the appeal of the petitioner on ground of delay.

4. Sri Rakesh Kumar, learned counsel for the petitioner, has submitted that the first Appellate Authority should have condoned the delay in filing of appeal and heard the appeal on merits as the order dated 14-8-2018 was not available on the website and petitioner was not aware of the filing of appeal offline, as such, there has been delay in filing the appeal within the statutory time fixed under Section 107 of the Act, which is three months and further the Appellate Authority is empowered to entertain the appeal presented within further one month. It was also contended that the appeal has been rejected on technical ground of delay and the order passed under Section 20 of the I.G.S.T. Act was only on the basis of minor clerical mistake, which appeared in the E-way Bill regarding wrong mentioning of the number of vehicle and thus the imposition of penalty of Rs. 3,52,800/- is totally arbitrary and illegal.

5. Reliance has been placed upon a decision of this Court in **Writ-Tax No. 822 of 2018 (M/S Central Industrial Security Force Vs. Commissioner of Central Goods and Service Tax and Central Excise and two others)** decided on 23-5-2018 wherein the Court had condoned the delay in filing the appeal beyond the prescribed period of limitation. Reliance has also been placed upon a decision of coordinate Bench of this Court in **Writ-Tax No. 1366 of 2019 (M/S Jindal Pipes Limited Vs. State of U.P. and three others)** wherein this Court had held that the service of the order upon the driver was not a service upon a person, who has been

affected by the order and the impugned order was quashed and the Court held the appeal filed to be within limitation as provided under Section 107 of the Act.

6. *Per contra*, Sri Bipin Kumar Pandey, learned Standing Counsel appearing for the State, has submitted that the goods were intercepted at Sikandara Toll Plaza, and various anomalies were found in the documents pertaining to the goods loaded in the vehicle. According to him validity of the E-way bill has been provided under Rule 138 (10) of the Goods and Service Tax Rules, and the E-way bill pertaining to the transit in question was issued on 10-8-2018 and was valid till 13-8-2018 i.e. for four days and the distance between New Delhi and Gorakhpur being more than 800 KM cannot be completed within the period of four days mentioned in Eway bill. Further, the vehicle number in question and other information was also wrongly mentioned in the tax invoice pertaining to the transit, as was required by the department, which is available on the departmental portal.

7. Sri Pandey, learned Standing Counsel, further submitted that as there is violation of the statutory provisions specified under Section 129 (1) of the Act, detention order (MOV-6) was passed followed by a show cause notice under Section 129 (3) of the Act. The show cause notice was served upon the driver of the vehicle and thereafter penalty order was passed on 14-8-2018 affirming the amount of tax and penalty, which was deposited by the petitioner and the goods and vehicle were released. He further submitted that the demand order i.e. MOV-9 was uploaded on the portal as well as it was provided to the driver of the vehicle and petitioner had himself annexed the copy of the said order which he obtained online through the departmental website.

8. Sri Pandey, learned Standing Counsel, further invited the attention of the Court to annexure No. 4 which is memo of appeal filed by the petitioner before the Appellate Authority wherein at serial no. 5 the date of order is mentioned as 14-8-2018, while at serial no. 7 the date of communication of the order appealed against has been shown as 14-8-2018, thus, it is wrong to say that the order was not served upon the petitioner and the petitioner did not have the knowledge because of the fact that same was not reflected online and the petitioner could not file the appeal online. He further invited the attention of the Court to the affidavit filed alongwith delay condonation application wherein at serial no. V and IX the reasons have been assigned by the petitioner that due to nonfunctioning of online filing facility and the fact



2021)                      **Kothari Associates Vs. State of U.P. (All)**                      21

that petitioner being unaware of the offline filing mechanism, there occurred delay in filing the appeal.

9. It is further contended that nowhere in the memo of appeal or in the writ petition the petitioner has taken the ground that the copy of the penalty order was served upon the driver of the vehicle and was not handed over to the petitioner, thus, the appeal could not be filed well within time, and it was during the argument that the counsel has come up with such a case which was not there before the authorities.

10. Lastly, Sri Pandey has submitted that as there is statutory provisions and the authorities cannot extend the period of limitation, thus, the appeal filed by the petitioner is totally time barred. He placed before the Court decision rendered by a coordinate Bench of this Court in **Writ-Tax No. 291 of 2020 (M/s. Polo International Vs. State of U.P. and others [(2021) 66 TLD 10 (All)]** wherein this Court had given the opportunity to approach the State Appellate Tribunal so constituted. Reliance has been placed upon decision of the Apex Court in the case of **Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others, 2008 NTN (36) 9** wherein the Apex Court held that the Appellate Authority has no power to allow the appeal to be presented beyond period of 30 days, thus, there is complete exclusion of Section 5 of the Limitation Act. Similarly, in a matter relating to Central Excise the Apex Court in the case of **Commissioner of Custom and Central Excise Noida Vs. M/s. Punjab Fibres Limited, JT 2008 (2) SC 458** held that the reference which ought to have been made within 180 days from the date of order passed by the Tribunal is served on the Commissioner or any other authority and any delay in making the reference application cannot be condoned. Reliance has also been placed upon a decision of the Apex Court in the case of **Assistant Commissioner (CT) LTU Kakinada and others Vs. M/s. Glaxo Smit Kline Consumer Health Care Limited, Civil Appeal No. 2413 of 2020**, wherein the Apex Court had taken the view that no appeal can be filed beyond the statutory period and no indulgence can be shown by the High Court. Relevant paragraph nos. 18 and 19 are extracted here as under;

“18. Suffice it to observe that this decision is on the facts of that case and cannot be cited as a precedent in support of an argument that the High Court is free to entertain the writ petition assailing the assessment order even if filed beyond the statutory period of maximum 60 days in filing appeal. The remedy of appeal is creature of statute.



If the appeal is presented by the assessee beyond the extended statutory limitation period of 60 days in terms of Section 31 of the 2005 Act and is, therefore, not entertained, it is incomprehensible as to how it would become a case of violation of fundamental right, much less statutory or legal right as such.

19. *Arguendo*, reverting to the factual matrix of the present case, it is noticed that the respondent had asserted that it was not aware about the passing of assessment order dated 21-6-2017 although it is admitted that the same was served on the authorised representative of the respondent on 22-6-2017. The date on which the respondent became aware about the order is not expressly stated either in the application for condonation of delay filed before the appellate authority, the affidavit filed in support of the said application or for that matter, in the memo of writ petition. On the other hand, it is seen that the amount equivalent to 12.5% of the tax amount came to be deposited on 12-9-2017 for and on behalf of respondent, without filing an appeal and without any demur - after the expiry of statutory period of maximum 60 days, prescribed under Section 31 of the 2005 Act. Not only that, the respondent filed a formal application under Rule 60 of the 2005 Rules on 8-5-2018 and pursued the same in appeal, which was rejected on 17-8-2018. Furthermore, the appeal in question against the assessment order came to be filed only on 24-9-2018 without disclosing the date on which the respondent in fact became aware about the existence of the assessment order dated 21-6-2017. On the other hand, in the affidavit of Mr. Sreedhar Routh, Site Director of the respondent company (filed in support of the application for condonation of delay before the appellate authority), it is stated that the company became aware about the irregularities committed by its erring official (Mr. P. Sriram Murthy) in the month of July, 2018, which presupposes that the respondent must have become aware about the assessment order, at least in July, 2018. In the same affidavit, it is asserted that the respondent company was not aware about the assessment order, as it was not brought to its notice by the employee concerned due to his negligence. The respondent in the writ petition has averred that the appeal was rejected by the appellate authority on the ground that it had no power to condone the delay beyond 30 days, when in fact, the order examines the cause set out by the respondent

and concludes that the same was unsubstantiated by the respondent. That finding has not been examined by the High Court in the impugned judgment and order at all, but the High Court was more impressed by the fact that the respondent was in a position to offer some explanation about the discrepancies in respect of the volume of turnover and that the respondent had already deposited 12.5% of the additional amount in terms of the previous order passed by it. That reason can have no bearing on the justification for non-filing of the appeal within the statutory period. Notably, the respondent had relied on the affidavit of the Site Director and no affidavit of the concerned employee (P. Sriram Murthy, Deputy Manager-Finance) or at least the other employee [Siddhant Belgaonker, Senior Manager (Finance)], who was associated with the erring employee during the relevant period, has been filed in support of the stand taken in the application for condonation of delay. Pertinently, no finding has been recorded by the High Court that it was a case of violation of principles of natural justice or non-compliance of statutory requirements in any manner. Be that as it may, since the statutory period specified for filing of appeal had expired long back in August, 2017 itself and the appeal came to be filed by the respondent only on 24-9-2018, without substantiating the plea about inability to file appeal within the prescribed time, no indulgence could be shown to the respondent at all.”

**11.** Having heard learned counsel for the parties and from the perusal of the material on record, it transpires that while goods which were on their way from New Delhi to Gorakhpur being intercepted at Sikandara Toll Plaza by the mobile squad of the taxing authorities found the papers, accompanying the goods, not being in conformity, a show cause notice was given by the authorities and was served upon the driver of the vehicle in question and a reply was submitted. On the same day the penalty order was passed and was served upon the driver itself and the amount of tax demand as well as penalty was deposited by the petitioner on the same day i.e. 14-8-2018, pursuant to which the goods and vehicle were released.

**12.** Argument raised by learned counsel for the petitioner that the penalty order was not reflected on the web-portal of the department concerned, and the petitioner having no knowledge of filing the appeal offline, could not file the same within the statutory period, as provided under Section 107 of the Act, cannot be accepted to the extent that neither in the memo of appeal

or in the delay condonation application there is a single whisper as to the lack of knowledge of the fact that the appeal can be filed offline.

**13.** It has been pressed by the department that the memo of the appeal reflects that the communication of the order was made on 14-8-2018 and is accepted to the petitioner, thus, he cannot take the plea that the order was not served upon him and was not uploaded on the web-portal of the department, as each and every order and demand is uploaded on the webportal and the plea taken is only to the extent for getting the delay in filing the appeal condoned. As it is evident from the decision of the Apex Court in the case of **Glaxo Smith Kline Consumer Health Care Limited (Supra)** wherein the Apex Court has categorically held that the statutory period specified for filing of appeal cannot be condoned as the remedy of appeal is creature of statute and if period of 90 days is provided for challenging the penalty order, the same cannot be condoned and extended by the High Court exercising power under Article 226 of the Constitution of India.

**14.** Further, the petitioner neither in the present writ petition nor in the grounds of appeal before the first Appellate Authority had disclosed the fact that during which period the order dated 14-8-2018 was not reflected on the web-portal of the department and when did he came to know that the appeal could be filed offline. In the rejoinder affidavit filed by the petitioner it is only submitted that the demand order as well as penalty order dated 14-8-2018 was not uploaded but no specific denial has been made to the averment made by the department that all the orders are uploaded on the web-portal of the department and similarly the demand order as well as penalty order dated 14-8-2018 passed against the petitioner was also uploaded on the web-portal.

**15.** Moreover, in the rejoinder affidavit the petitioner has tried to build up a case that the order was served upon the driver of the vehicle in question which will not amount to the service upon the petitioner. This assertion cannot be accepted as from the perusal of memo of the appeal it is clear that the date of communication of order has been mentioned specifically as 14-8-2018. Further on the said date the entire amount was deposited by the petitioner, pursuant to which the goods and vehicle in question were released, thus, the argument as well as assertion made in the rejoinder affidavit cannot be accepted to the extent that no service was made upon the petitioner as the order was served upon the driver of the vehicle.

**16.** Reliance placed upon the decision of coordinate Bench of this Court in the case of **M/s. Jindal Pipes Limited (Supra)** is distinguishable in the facts of the present case and the benefit of the same cannot be extended to the petitioner, moreso, no such ground was ever taken by the petitioner before the first Appellate Authority while filing the appeal nor in the affidavit filed to the delay condonation application. The reliance placed upon the decision of Division Bench judgment of this Court in the case of **M/S Central Industrial Security Force (Supra)** is also of no help to the petitioner as the said case is also distinguishable in the facts of the present case, as in that case the delay was not occasioned because of any fault on the part of the petitioner that the Court granted time for filing the appeal.

**17.** As in the present case the petitioner was very well aware of the fact that against the penalty order dated 14-8-2018 he had the remedy of filing the appeal but the same was not availed within the statutory limit provided under Section 107 of the Act, but he has approached the first Appellate Authority after a delay of eight months on the ground that the web-portal of the department did not reflect the penalty order, while the same has been categorically denied by the department, to which the petitioner failed to respond with concrete answer, thus, no indulgence can be granted and the writ petition being devoid of merit is hereby **dismissed**.

**18.** However, Sri Pandey, learned Standing Counsel, in his usual fairness has placed before the Court a notification issued by the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes and Custom published in Gazette of India on 3-12-2019, which extracted as under;

“Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Indirect Taxes and Customs

**Order No. 09/2019-Central Tax**

New Delhi, the 03rd December, 2019

S.O.(E).—WHEREAS, sub-section (1) of section 112 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this Order referred to as the said Act) provides that any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three

months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal;

AND WHEREAS, sub-section (3) of section 112 of the said Act provides that the Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order;

AND WHEREAS, section 109 of the said Act provides for the constitution of the Goods and Services Tax Appellate Tribunal and Benches thereof;

AND WHEREAS, for the purpose of filing the appeal or application as referred to in sub-section (1) or sub-section (3) of section 112 of the said Act, as the case may be, the Appellate Tribunal and its Benches are yet to be constituted in many States and Union territories under section 109 of the said Act as a result whereof, the said appeal or application could not be filed within the time limit specified in the said sub-sections, and because of that, certain difficulties have arisen in giving effect to the provisions of the said section;

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Central Goods and Services Tax Act, 2017, the Central Government, on the recommendations of the Council, hereby makes the following Order, to remove the difficulties, namely:-

1. **Short title.-** This Order may be called the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019.
2. For the removal of difficulties, it is hereby clarified that for the purpose of calculating,-
  - (a) the “three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal” in sub-section (1) of section 112, the start of the three

2021)

**Kothari Associates Vs. State of U.P. (All)**

27

months period shall be considered to be the later of the following dates:-

- (i) date of communication of order; or
  - (ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office;
- (b) the “six months from the date on which the said order has been passed” in sub-section (3) of section 112, the start of the six months period shall be considered to be the later of the following dates:-
- (i) date of communication of order; or
  - (ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office.”

**19.** Relying upon this gazette notification coordinate Bench of this Court in the case of **Polo International (Supra)** held as under;

“It has been pointed out by learned standing counsel that the Government, having regard to the difficulty faced by the assessee in filing appeal on account of non-constitution of the Tribunal and its Benches in various States and Union Territories, has issued Central Goods and Service Tax (Ninth Removal of Difficulties) Order, 2019 notified in the Gazette of India dated 3rd December, 2019 stipulating that in such a situation, the three months’ period shall be considered to be the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under Section 109, enters office. It is urged that in such circumstances, the petitioner can wait and avail the remedy of filing appeal as and when the Tribunal is constituted. It is also pointed out that since the seized goods have already been released, therefore, no prejudice is going to be caused to the petitioner at the present moment.

Learned counsel for the petitioner very fairly admits the above legal position and also the fact that the goods have already been released.

In view of the above, the instant petition is disposed of by providing that the petitioner can invoke the remedy of filing appeal before the Tribunal in terms of the provisions of the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019.”

20. In view of the above the petitioner is also provided indulgence to the above extent.

□

(2021) 66 TLD 28

In the High Court of Kerala  
Hon'ble A.K. Jayasankaran Nambiar, J.

**Loafers Corner Cafe**

**Vs.**

**Union of India & Others**

W.P. (C). No.: 5127 of 2020 (M)

October 20, 2020

*Deposition : In favour of Petitioner*

**Composition levy - Section 10 of CGST Act, 2017 - The delayed processing of the application submitted by the petitioner cannot be a reason to deprive the petitioner of the statutory benefit that he had claimed through the application.**

**Writ petition allowed**

*The High Court directed the respondents to make the necessary changes in the portal so as to enable the petitioner to file the returns for the relevant period without charging the petitioner any late fee or other charges on account of the delay occasioned by the respondent.*

Sri. G. Krishnakumar for the petitioner.

Shri. P. Vijayakumar, ASG of India for R1 & Shri. P.R. Sreejith, SC, GSTN for R3

**:: JUDGMENT ::**

The petitioner, which is a partnership firm, has approached this Court aggrieved by the delay occasioned by the respondent in cancelling an earlier registration, and granting him a new registration under the GST Act. It is the case of the petitioner that, while under the original registration it had opted for payment of tax on the normal basis, it had since filed an application for a fresh GST registration on 19-6-2018 so that it could opt for the compounded scheme for payment of tax in respect of the business carried on by the firm. It is not in dispute that the new registration sought for was allotted to it subsequently, but in the meanwhile, during the period between the date of application for the new registration and the grant of the same



**2021)      Loafers Corner Cafe Vs. Union of India (Ker)      29**

consequent to a cancellation of the earlier registration, the return filed by the petitioner under the composition scheme could not be uploaded into the system, since the system recognised only the earlier registration which was not under the compounded scheme. It is, therefore, that the petitioner has approached this Court seeking a direction to the respondents to make necessary changes in the portal so as to enable the petitioner to file returns for the period from October 2018 to December 2018, January 2019 to March 2019, April 2019 to June 2019, July 2019 to September 2019, October 2019 to December 2019 and January 2020 to March 2020 without charging any late fee or other charges for the delayed uploading.

2. Through a statement filed on behalf of the respondent No.3, it is admitted that while the cancellation application was filed by the petitioner earlier, it was approved by the respondent only on 18-5-2019 and this delay is stated to be attributable to the delayed processing through the system maintained by the respondent. It is not in dispute, however, that the application for cancellation of the earlier registration was filed by the petitioner on 22-5-2018 and the application for the new registration was filed by him on 19-6-2018.

3. On a consideration of the rival submission, I note that inasmuch as it is not in dispute that the petitioner had applied for a cancellation of its earlier registration as early as on 22-5-2018 and had applied for a new registration on 19-6-2018, the mere fact that the respondents took time to process the said applications, and pass orders thereon approving the cancellation application as also granting the new registration, cannot be a reason to treat the interim period as one in which the petitioner cannot get the benefit of the compounding scheme which he had opted through its application for new registration. The delayed processing of the application submitted by the petitioner cannot be a reason to deprive the petitioner of the statutory benefit that he had claimed through the application in question.

I, therefore, allow this writ petition by directing the respondents to make the necessary changes in the portal so as to enable the petitioner to file the returns for the period aforementioned without charging the petitioner any late fee or other charges on account of the delay occasioned by the respondent. The respondent shall do the needful to facilitate the uploading of the returns aforementioned, and the availment of the applicable input tax credit, within a period of one month from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of this judgment together with a copy



of the writ petition before the respondents for further action.

□

(2021) 66 TLD 30

In the High Court of Kerala

Hon'ble N. Nagaresh, J.

**Malayalam Motors Pvt. Ltd.**

**Vs.**

**The Assistant State Tax Officer**

W.P. (C). No.: 21490 of 2020(I)

October 12, 2020

*Deposition : In favour of Petitioner*

**Form GSTR-1 - Furnishing details of outward supplies - Section 37 of CGST Act, 2017 - Payment of the admitted amount shown in the return - The High Court directed the respondent to accept the belated return without insisting on payment of the admitted tax declared therein - The High Court also permitted to discharge the tax liability, inclusive of any interest and late fee thereon, in equal successive monthly instalments.**

**Writ petition disposed of**

**Case applied/followed :**

\* W.P.(C) No.14275/2020

Adv. Adithya rajeev for the petitioner.

Smt. Thushara James, Sr. Government Pleader for the Respondent.

**:: JUDGMENT ::**

The petitioner is a private limited company engaged in the business of automobile sales. In the writ petition, it is the case of the petitioner that though the Company filed GSTR-1 returns for the months of February, 2020 to May, 2020, due to Covid pandemic, could not generate funds to make lump sum payment of the admitted tax. The Company, however, intends to pay the arrears of tax due without contesting the same. But, the respondent has expressed his inability to permit the petitioner to pay the arrears of tax in instalments. The petitioner reiterates that on account of the present Covid pandemic situation, the petitioner is not in a position to generate the funds necessary for making a lump sum payment of the admitted tax for the said period, and it is therefore that the petitioner seeks a direction from this Court

**2021) Malayalam Motors Vs. The Asstt. STO (Ker) 31**

to permit the petitioner to file the returns without paying the entire admitted tax, but ensuring that the payment of admitted tax, together with interest thereon and applicable late fees etc., will be made in quick instalments.

2. The learned Standing Counsel for the respondent would point out that the provisions of the Act do not provide for the payment of the admitted amount shown in the return in instalments, and hence the relief sought for by the petitioner cannot be granted in view of the express provisions of the statute.

3. I have heard the learned counsel for the petitioner and the learned Standing counsel for the respondent.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I note that the petitioner, who is an assessee under the GST Act, is not disputing its liability to tax, or the quantum thereof, for the period in question. It only seeks an instalment facility to pay the admitted tax, together with interest thereon, in view of the financial difficulties faced by it during the Covid pandemic situation, when its business has come to a total standstill.

5. This Court in W.P.(C) No.14275/2020, in similar circumstances, directed the respondent tax authority to accept the belated returns and permitted the petitioner therein to discharge the balance tax liability in equal monthly instalments.

6. Under the circumstances, since the petitioner is not disputing its liability, and wishes to put a quietus to the matter, I deem it appropriate to direct the respondent to accept the belated return filed by the petitioner for the period from February, 2020 to April, 2020, without insisting on payment of the admitted tax declared therein. The petitioner shall be permitted to discharge the tax liability, inclusive of any interest and late fee thereon, in equal successive monthly instalments commencing from 15th November, 2020 and culminating on 15th August, 2021. It is made clear that if the petitioner defaults in any single instalment, the petitioner will lose the benefit of this judgment and it will be open to the respondent to proceed with recovery proceedings for realisation of the unpaid tax, interest and other amounts, in accordance with law.

The Writ Petition is disposed as above.



(2021) 66 TLD 32

In the High Court of M.P.  
Hon'ble Ravi Shankar Jha & Nandita Dubey, JJ.

**Rameez Enterprises**

**Vs.**

**Managing Director**

W.P. No. : 14403-2017

January 9, 2018

*Deposition : Disposed of*

**Pending adjudication - The High Court observed that no fruitful purpose would be served by entertaining the present petitions as the matter is already pending adjudication before the Supreme Court.**

**Writ petition disposed of**

Shri Sanjay Mishra, learned counsel for the petitioners.

Shri Deepak Awasthi, learned Deputy Advocate General for the respondent/  
State.

**:: ORDER ::**

Having heard the learned counsel for the parties, it is observed that it is an admitted and undisputed fact that the issue as to whether the authorities can encash the bank guarantee by issuing the letter dated 1-9-2017 and the validity thereof is pending adjudication before the Supreme Court in SLP No. 25166/2017 filed by the petitioners.

The very same issue has been raised by the petitioners in the present petition, however the same issue is already pending before the Supreme Court in SLP No. 25166/2017 and as the Supreme Court has taken cognizance of the same and granted interim relief, no fruitful purpose would be served by entertaining the present petitions as the matter is already pending adjudication before the Supreme Court. It is observed that the petitioners, in the present bunch of petitions is questioning the validity of the same letter dated 1-9-2017 issued by the respondent/Federation seeking encashment of the bank guarantee during the pendency of the appellate proceedings before the Appellate Board, wherein the Appellate Board has granted stay to the respondent/Federation by order dated 1-1-2014.

In view of the aforesaid facts and circumstances, as the petitioners have already taken up the issue raised in the present petitions before the Supreme

**2021) Heritage Lifestyles & Developers Vs. UOI (Bom) 33**

Court and that the petitioners cannot be permitted to pursue two parallel remedies, the petition filed by the petitioners is disposed of with liberty to the petitioners to raise all the issues in the SLP pending before the Supreme Court.

With the aforesaid liberty/observation the petition filed by the petitioners, stands disposed of.

□

**(2021) 66 TLD 33**

In the High Court of Bombay  
Hon'ble Ujjal Bhuyan & Abhay Ahuja, JJ.  
**Heritage Lifestyles and Developers and Pvt. Ltd.**  
**Vs.**

**The Union of India & Others**  
Writ Petition (ST.) No. : 3705 of 2020  
November 5, 2020

***Deposition : In favour of Petitioner***

**Transitional credit - Input tax credit - The finding of the ITGRC would in the face of the admission by the Respondents to the amount of credit, would be a mere technicality which cannot come in the way of substantial justice.**

**Writ petition allowed**

*In view of our above discussion, as admittedly in this case the Respondents have found the Petitioner to be eligible for input credit amounting to Rs. 78,62,466/-, in our view the finding of the ITGRC would in the face of the admission by the Respondents to the amount of credit, would be a mere technicality which cannot come in the way of substantial justice. [Para 27]*

*Accordingly, we direct the Respondents to accept the TRAN-1 filed by the Petitioner and to give the due of input tax credit of Rs. 78,62,466/- in the electronic credit ledger/input tax credit of the Petitioner within two weeks from the date of this order. [Para 28]*

*In view of our above order, we do not consider it necessary to examine the Petitioner's challenge to the vires of Rules 117 and 118 of the Central Goods and Services Tax Rules, 2017. [Para 29]*

*The Petition is accordingly allowed in the above terms. [Para 30]*

**Cases referred :**

- \* Kedarnath Jute Manufacturing Co. Vs. Commissioner of Income Tax (SC)
- \* Mangalore Chemicals and Fertilizers Ltd. Vs. Deputy Commissioner (1991) 55 ELT 437 (SC)
- \* NELCO Limited Vs. Union of India (Writ Petition No. 6998 of 2018).
- \* Wells Vs. Minister of Housing and Local Government (1967) 1 WLR 1000

Mr. Bharat Raichandani i/b M/s UBR Legal - Advocate for the Petitioner.  
Mr. Pradeep S. Jetly, Senior Advocate with Mr. Jitendra Mishra - Advocates for the Respondent Nos. 1, 2 and 4 to 10.

**:: ORDER ::**

**(THROUGH VIDEO CONFERENCING)**

The Order of the Court was made by **ABHAY AHUJA, J. :**

1. Heard. Rule. Rule made returnable forthwith. By the consent of the Counsel for the parties, the matter is taken up for final hearing.
2. Being aggrieved and dissatisfied by the inaction on the part of the Respondent authorities in not giving Input tax credit to the claim of the Petitioner pursuant to the Board Circular No. 39/13/2018-GST dated 3rd April, 2018, the Petitioner has sought to not only challenge the said inaction but also to challenge the vires of Rule 117 and Rule 118 of the Central Goods and Service Tax Rules, 2017 as null and void and ultra vires Section 140 (1), Section 140 (3) and Section 9 of the Central Goods and Services Tax Act, 2017 and Article 14, 19, 246, 248, 265, 268A, 286 and 302 read with entry 41 and 83 of list 1 of Schedule VII of the Constitution of India and as also being beyond the legislative competence of the Parliament under Article 269-A of the Constitution of India and has prayed for the following reliefs:-

- (a) *that this Hon'ble Court may be pleased to issue Any writ, order or direction more particularly in the nature of a Writ of Declaration to declare Rule 117 and Rule 118 of Central Goods and Service Tax rules 2017 as null, void and ultra vires of Section 140(1), Section 140(3) and Section 9 of Central Goods and Service tax Act 2017 and Article 14, 19, 246, 248, 265, 268A, 286 and 302 read with Entry 41 and 83 of List 1 of VII Schedule of the Constitution of India and as also being beyond the legislative competence of*

*Parliament under Article 269A of the Constitution of India in so far as it is impugned and pass such further or other orders as this Hon'ble Court may deem fit and necessary in the facts and circumstance of the case and thus render justice;*

- (b) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions, direct the Respondents to pass such directions to allow the petitioner to file Tran-1 electronically and carry forward the eligible cenvat credit in the electronic credit ledger/ Input tax credit account;*
- (c) that this Hon'ble Court be pleased to issue a writ of mandamus or any other writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner case and direct Respondents to either accept copy of TRAN-1 in physical form and give due credit from back end or allow to file the declaration under TRAN-1 electronically and reflect the said input tax credit in the electronic credit ledger / input tax credit account.*

3. It is submitted that the Petitioner is a Private limited company, *inter-alia* engaged in the business of construction and development of real estate for the purpose of sale to prospective buyers and is registered as a dealer under the provisions of the Maharashtra Value Added Tax Act, 2002 (the "MVAT Act") as well as registered under the provisions of the Central Goods and Services Tax Act, 2017 ("CGST Act") as a 'service provider' and also as "registered dealer".

4. It is submitted that under the pre-GST regime, the Petitioner was paying Service tax on the services and filing returns. It was therefore availing credit/set off of service tax paid on input service. Under the pre-GST regime, the Petitioner was also paying MVAT on the sale of goods, filing returns and also availing credit/set off of MVAT.

5. Post introduction of the CGST Act, 2017 with effect from 1-7-2017, pursuant to the transitional provisions contained in Chapter XX of the CGST Act, 2017 as well as under Chapter XX of the Maharashtra Goods and Services Tax Act, 2017 ("MGST Act"), the Petitioner was entitled to carry

forward Input tax credit as on 30-6-2017 in the TRAN-1 form for the period from 1-7-2016 to 30-6-2017 totaling an amount of Rs. 79,44,237.61/-, under Section 140 of the CGST Act read with Rule 117 of the CGST Rules and Rule 118 of the MGST Rules.

**6.** Petitioner submits that Section 140 of the CGST Act read with Rule 117 of the CGST Rules requires a migrated registered supplier to file a declaration (in electronic form) under form TRAN-1 intimating/disclosing details of CENVAT credit of tax paid on inputs, capital goods, input services in order to carry forward the same to the electronic credit ledger/input tax credit account under the CGST Act, 2017. The declaration/form was required to be filed within a period of 90 days from the appointed date i.e. 1-7-2017, which time limits were extended to 27-12-2017, then to 31-3-2019 and finally to 31-12-2019. It is submitted that the said form TRAN-1 was notified in August, 2017 and the online functionality to file the said form was deployed on GST portal only on 21-8-2017.

**7.** It is submitted that the Petitioner could not file the TRAN-1 by 27-12-2017 due to lack of awareness of the procedures, technical glitches, GST being new and a complex system to operate. The Petitioner has annexed screenshot being Exhibit-H to the Petition to demonstrate technical glitches.

**8.** It is submitted by the Petitioner that upon inquiry about the form TRAN-1, the Petitioner was assured that sufficient time would be provided and further extension beyond 27th December, 2017 would be granted as there were lots of other extensions taking place in the implementation of various modules/forms of GST.

**9.** Petitioner then wrote a letter dated 7-5-2018 to Respondent No. 5 informing the latter that it was unable to fill up and file TRAN-1 form within the appointed due time. Petitioner also drew the attention of Respondent No. 5 towards CBIC Circular dated 3-4-2018, wherein opportunity to file TRAN-1 was given to all assesseees who were unable to file the TRAN-1 due to technical difficulties and to make an application for the redressal of grievances. By the said letter, Petitioner provided details as per Circular No. 39/13/2018-GST dated 3-4-2018 and requested Respondent No. 5 to redress its grievances.

**10.** It is submitted that vide letter dated 18-5-2018, Respondent No. 7 requested the Petitioner for documents/information which were provided to the said Respondent vide letters dated 18-5-2018 and 21-5-2018.



**2021) Heritage Lifestyles & Developers Vs. UOI (Bom) 37**

**11.** It is the case of the Petitioner that vide letter dated 24-5-2018, Respondent No. 7 after due verification of the claim of the Petitioner relating to CENVAT Credit/ITC forwarded the application for further disposal to Respondent No. 8 *inter-alia* stating that the application has been filed by the tax payer on 7-5-2018, which was within the stipulated date i.e. 10-5-2018 as extended by the Bombay High Court.

**12.** It is submitted that vide E-mail dated 18-9-2018, Respondent No. 5 wrote to the GSTN Nodal Officer seeking to know the status of the application.

**13.** Further by letter dated 25-9-2018, Petitioner wrote letter to Respondent No. 9 stating that since it was unable to file TRAN-1 due to technical glitches it had submitted TRAN-1 manually for verification and requested Respondent No. 9 to activate TRAN-1 portal to enable Petitioner to file TRAN-1 electronically and to claim credit in electronic credit ledger.

**14.** Vide letters dated 11-12-2018, 12-12-2018 and 31-3-2019, Petitioner sent reminders to the Respondents with respect to its application made pursuant to the CBIC circular dated 3-4-2018.

**15.** Petitioner submits that since the Petitioner has not received any clarity from the Respondents with regard to the carry forward of the CENVAT credit in respect of its application, it has been left with no option but to file the present Petition as a result of the hardship caused to the Petitioner. Petitioner has also raised grounds challenging the vires of Rule 117 and Rule 118 of the CGST Rules as ultra vires Sections 140 (1), 140 (3) and Section 9 of the CGST Act as well as ultra vires the Constitution of India as mentioned above.

**16.** Respondents have filed reply submitting that the issue involved in the Petition is no more res-integra and is covered by the Judgment dated 20-3-2020 passed by this Court in the case of **NELCO Limited Vs. Union of India and Ors. (Writ Petition No. 6998 of 2018)**. It is submitted that Petitioner's application for manual GST TRAN-1 dated 7-5-2018 pursuant to the Board Circular No 39/13/2018-GST dated 3rd April, 2018 was sent for verification to the Additional Commissioner, Nodal Officer IT Grievance Redressal (ITGRC) Mechanism, CCO, CGST and Central Excise, Mumbai Zone for further action. However, the Petitioner's application was not approved by the ITGRC under the category description "*The Tax Payer has neither tried for saving/submitting or filing TRAN-1*".



**17.** In the affidavit-in-reply it has also been stated that though the Petitioner was found to be eligible for credit amounting to Rs. 78,62,466/-, it was denied by ITGRC as there was no log of such attempt made by it.

**17.1.** Petitioner has filed affidavit in rejoinder stating that the NELCO decision (Supra) is not applicable to the facts of the present case as the same are distinguishable on facts.

**18.** Mr. Raichandani, learned counsel for the Petitioner has specifically drawn our attention to Exh. “N” to the Writ Petition being communication dated 24-5-2018 to submit that the application of the Petitioner for manual GST TRAN-1 in terms of the said circular dated 3-4-2018 which has been filed within time has been verified by the jurisdictional office. He would submit that when Respondents themselves have verified the input tax credit due to the Petitioner and when the Respondents themselves have found that the Petitioner is eligible for credit amounting to Rs. 78,62,466/-, then a technicality raised by ITGRC cannot deprive the Petitioner of the due credit in its credit ledger and prays that this Petition be accordingly allowed. Learned counsel for the Petitioner has relied upon the Supreme Court decision in the case of **Mangalore Chemicals and Fertilizers Ltd. Vs. Deputy Commissioner [1991 (55) ELT 437 (SC)]**.

**19.** On the other hand, Mr. Jetley, learned counsel for the Respondents would submit that the said circular has been issued only to address the difficulties due to technical glitches on the GST Portal in respect of tax payers who were not able to complete TRAN-1 procedure before 27-12-2019 which is not the case of the Petitioner here. He reiterates that in fact ITGRC has clearly denied eligibility of input tax credit to the Petitioner on the ground that the tax payer has neither tried for saving/submitting or filing TRAN-1.

**20.** We have heard learned counsel Shri Bharat Raichandani for the Petitioner and Shri Pradeep Jetley alongwith Shri J. B. Mishra for the Respondents. We have also perused the papers and proceedings in this Petition.

**21.** This is a case, where admittedly Petitioner could not file GST TRAN-1 on or before 27-12-2017 but had manually applied for GST TRAN-1 on 7-5-2018 as per Circular dated 3-4-2018 within the timeline as per the date extended by this Court. Also admittedly the Respondents have found the Petitioner to be eligible for credit amounting to Rs. 78,62,466/-. But the credit for the same has been denied as the ITGRC found that the Petitioner has

**2021) Heritage Lifestyles & Developers Vs. UOI (Bom) 39**

not tried to save or submit or file TRAN-1 before 27-12-2017. We are informed by the learned counsel for the Petitioner which is not controverted by the learned Sr. counsel for the Respondents that this information of rejection of the Petitioner's application for manual GST TRAN-1 has not been communicated to the Petitioner despite several reminders/communications from the Petitioner and it is only by way of the affidavit in reply filed to this Petition that the Petitioner has become aware of the rejection.

**22.** Be that as it may, it is true that the above circular has been issued keeping in mind cases where difficulties have been faced by a section of tax payers owing to technical glitches on the GST Portal. However, the facts of this case are peculiar in as much as the respondents themselves admitted that the Petitioner is eligible for input tax credit but have rejected the claim because the ITGRC has not approved it saying that the tax payer has neither tried for saving/submitting or filing TRAN-1. There is no further explanation or clarification on this issue by the Respondents except to state the ITGRC description viz. **“The tax payer has neither tried for saving/submitting or filing TRAN- 1”**. Therefore it would be not necessary for us to even deal with the Circular under which the application for manual TRAN-1 has been made. When there is no dispute to the fact that the Petitioner is otherwise eligible for credit of Rs. 78,62,466/- then to deny the benefit of such Input credit merely on technical grounds cannot be justified. Merely on technical ground an admitted input credit is sought to be denied to the Petitioner. That according to us would be wholly unfair and a travesty of justice. It is in these facts and circumstances that we are compelled to invoke our writ jurisdiction in this case.

**23.** In this context, we would like to refer to the Supreme Court decision in the case of **Mangalore Chemicals and Fertilizers Ltd. Vs. Deputy Commissioner (Supra)**. That was a case where there was no dispute that the appellant was entitled to the benefit of an exemption under notification dated 30-6-1969 nor there was a dispute that the refunds were eligible to the adjusted against sales tax payable for respective years, but the only controversy was whether the appellant not having actually secured “prior permission” would be entitled to adjustment having regard to the words of notification of 11th August 1975, that until permission of renewal is granted by the Deputy Commissioner of Commercial Taxes, the new industry should not be allowed to adjust the refunds. Hon'ble Supreme Court aptly

summarized the contention as under :-

*“The contention virtually means this : “No doubt you were eligible and entitled to make the adjustments. There was also no impediment in law to grant you such permission. But see language of Clause 5. Since we did not give you the permission you cannot be permitted to adjust” Is this the effect of the law?”*

24. After considering the arguments of the counsel and after considering its own decisions in various cases including the decision in the case of **Kedarnath Jute Manufacturing Co. Vs. Commissioner of Income Tax**, Supreme Court allowed the appeal while quoting Lord Denning [in the case of **Wells Vs. Minister of Housing and Local Government: 1967 (1) WLR 1000**] as under :

*“Now I know that a Public Authority cannot be estopped from doing its public duty, but I do think it can be estopped from relying upon a technicality and this is a technicality”.*

25. Supreme Court also quoted Francis Bennion in his “Statutory Interpretation”, 1984 edition at page 683 as under:

*“Unnecessary technicality : Modern Courts seek to cut down technicalities attendant upon a statutory procedure where these cannot be shown to be necessary to the fulfillment of the purposes of the legislation.”*

26. The above decision and particularly the above quotes to our mind aptly describe the situation at hand.

27. In view of our above discussion, as admittedly in this case the Respondents have found the Petitioner to be eligible for input credit amounting to Rs. 78,62,466/-, in our view the finding of the ITGRC would in the face of the admission by the Respondents to the amount of credit, would be a mere technicality which cannot come in the way of substantial justice.

28. Accordingly, we direct the Respondents to accept the TRAN-1 filed by the Petitioner and to give the due of input tax credit of Rs. 78,62,466/- in the electronic credit ledger/input tax credit of the Petitioner within two weeks from the date of this order.

29. In view of our above order, we do not consider it necessary to examine the Petitioner’s challenge to the vires of Rules 117 and 118 of the Central Goods and Services Tax Rules, 2017.

2021) **Boxster Impex Vs. Union of India (Bom)** 41

30. The Petition is accordingly allowed in the above terms. However, there shall be no order as to costs.

31. This order will be digitally signed by the Personal Assistant of this Court. Associate of this Court is permitted to forward the parties copy of this order by email. All concerned to act on digitally signed copy of this order.

□

(2021) 66 TLD 41

In the High Court of Bombay  
Hon'ble Ujjal Bhuyan & Abhay Ahuja, JJ.

**Boxster Impex Pvt. Ltd.**

Writ Petition (ST.) No. : 5669 of 2020

**Elantra Exports Pvt. Ltd.**

Writ Petition (ST.) No. : 5666 of 2020

**Dunox Trading and Exports Pvt. Ltd.**

Writ Petition (ST.) No. : 5670 of 2020

**Vs.**

**Union of India and ors.**

September 22, 2020

*Deposition : In favour of Petitioner*

**Demand and recovery - An order in writing for provisional attachment of a bank account is a must before such an account can be attached - Section 110(5) of the Customs Act, 1962.**

**Refund - IGST/GST - Extreme measures such as placing of alert on IEC and withholding of IGST/GST dues can not be continued for an indefinite period. The same cannot be continued adinfinitum merely on the basis of suspicion, howsoever strong such suspicion may be.**

**Writ petitions allowed**

*Thus from a careful reading of sub-section (5) of Section 110 it is noticeable that several pre-conditions and procedures are mandated. It may not be necessary for an elaborate deliberation of the same in view of the fact that respondents in their affidavit have not placed on record any order passed by the Principal Commissioner of Customs or Commissioner of Customs under sub-section (5) of Section 110. Suffice it to say that an order in writing for provisional attachment of a bank account is a must before such an account can be attached. In the*

*absence of such an order in writing respondents could not have provisionally attached the bank account of the petitioner and continued with such attachment even beyond the permissible extended period. [Para 33]*

*Learned counsel for the respondents could not show any other provision in the Customs Act which empowers or authorizes the customs department to freeze the bank account of a person other than sub-section (5) of Section 110. Such attachment of bank account of the petitioner on 1st March, 2019 and its continuation thereafter being in breach of Section 110(5) is therefore, without any authority of law. [Para 34]*

*Coming to the second and third grievance of the petitioner, we are of the view that alert has been placed on the IEC of the petitioner on the basis of materials which are presently under investigation of the customs department. For the said reason, refund of IGST/GST dues has also been held up. However, we feel that the investigation needs to be expedited and taken to its logical conclusion one way or the other because extreme measures such as placing of alert on IEC and withholding of IGST/GST dues can not be continued for an indefinite period. The same cannot be continued adinfinitum merely on the basis of suspicion, howsoever strong such suspicion may be. [Para 35]*

*Thus, having regard to the discussions made above, we are of the view that the following directions will meet the ends of justice:-*

- (i) Respondents are directed to unfreeze the bank account of the petitioner bearing No. 10025372568 with IDFC Bank, Andheri (E) Branch forthwith;*
- (ii) Respondents are also directed to complete the investigation into the allegations against the petitioner within a period of three months from the date of receipt of a copy of this order;*
- (iii) Placing of alert on Import Export Code of the petitioner or claim of refund of IGST/GST would be subject to outcome of such investigation. [Para 37]*

Mr. Brijesh Pathak i/by Mr. Anand Sachwani, Advocates for the Petitioners in all the petitions.

Mr. P.S. Jetly, Sr. Adv. with Mr. J.B. Mishra, Advocates for the Respondents in all the petitions.

**:: ORDER ::**

This order will dispose of the above noted three writ petitions.

2. We have heard Mr. Anand Sachwani alongwith Mr. Brijesh Pathak, learned counsel for the petitioners; and Mr. P.S. Jetly, learned senior counsel alongwith Mr. J.B.Mishra, learned counsel for the respondents.

3. In Writ Petition (St.) No. 5670 of 2020 M/s. Dunox Trading and Exports Private Limited, a private limited company having its registered office at Andheri (W), Mumbai is the petitioner and has filed the writ petition seeking the following reliefs:-

- (i) To unfreeze bank account of the petitioner bearing No. 10025372568 with IDFC Bank, Andheri (E) Branch;
- (ii) To set aside the alert imposed on the Import Export Code of the petitioner;
- (iii) To set aside any direction(s) of the respondents for withholding refund of Integrated Goods and Services Tax ( IGST).

4. In Writ Petition (St.) No. 5669 of 2020 M/s. Boxster Impex Private Limited, a private limited company having its registered office at Ballard Estate at Mumbai is the petitioner and by filing this petition under Article 226 of the Constitution of India has prayed for identical reliefs; its account number being 172011100002306 with Andhra Bank, Lokhandwala Branch and 811230139267 with DBS Bank, Andheri Branch.

5. In Writ Petition (St.) No. 5666 of 2020 petitioner is Elantra Exports Private Limited, a private limited company having its registered office at New Link Road, Andheri (W), Mumbai. In this petition under Article 226 of the Constitution of India the reliefs sought for are identical save and except, the bank account numbers which are as under :-

Account No. 03800200001461 of Bank of Baroda, S.V.Branch and 916020048013860 of Axis Bank, Airoli Branch.

6. In the course of hearing, learned counsel for the parties advanced their arguments treating Writ Petition No. 5670 of 2020 as the lead case as pleadings have been exchanged in this case. Therefore, all references to facts and pleadings will be in respect of Writ Petition (St.) No. 5670 of 2020.

7. According to the petitioner he is engaged in the business of imports and exports and is duly registered with the Directorate General of Foreign Trade

having Importer and Exporter Code (IEC) No. AAGCD7568P.

**8.** Petitioner has stated that it buys handicraft items from various sellers in India for the purpose of export out of India. Petitioner has paid Goods and Services Tax (GST) while purchasing the goods; petitioner has also ensured that the sellers are registered with GST authorities too and have paid GST. Therefore, it is contended that petitioner is entitled to take input credit or refund under Section 16 of the Central Goods and Services Tax Act, 2017 when the goods are exported out of India by the petitioner. Petitioner has complied with all the requirements of the said Act and therefore, entitled to refund.

**9.** Petitioner's further claim is to refund of Integrated Goods and Services Tax (IGST) on the exported goods.

**10.** Grievance has been expressed by the petitioner that since the year 2018 the bank account of the petitioner has been frozen; besides refund claim of IGST has not been entertained for more than one year. That apart, an alert has been put on the IEC of the petitioner as a result of which its business has come to an standstill.

**11.** Petitioner has stated that officers of respondent No. 1 has carried out certain investigation pursuant to which director of the petitioner was summoned to the office of respondent No. 1 in the month of March, 2019, whereafter his statement was recorded. Thereafter, he was summoned several times which he had compelled with. However, till date no seizure of any goods belonging to the petitioner has been made nor any show cause notice has been issued to the petitioner.

**12.** Petitioner wrote letters dated 15th May, 2019, 20th May, 2019, 4th February, 2020 and 12th February, 2020 to the office of respondent No. 1 for removal of alert against the IEC of the petitioner. Petitioner also wrote to the office of respondent No. 1 on the said dates for unfreezing the bank account of the petitioner as well as to allow refund of GST/ IGST. However, no decision has been taken.

**13.** Aggrieved, present writ petition has been filed seeking the reliefs as indicated above.

**14.** An affidavit has been filed by Mr. Raghavendra Singh, Joint Commissioner of Customs (Preventive) on behalf of respondent No. 1. Stand taken in the affidavit is that petitioner is a fictitious and bogus company. Specific intelligence was received that M/s. Ronera Overseas Private Limited and



related firms are involved in circular trading by exporting cheap quality glass bangles on highly inflated value by mis-declaring description for claiming ineligible IGST refund and other government benefits. On examination of export consignments of M/s. Ronera Overseas Private Limited it was found that the goods contained therein were ordinary glass bangles, many of which were already in broken state and not fit for market sale. During the same period on examination of import consignments drawn at M/s. Ashte Logistics Private Limited belonging to M/s. Alan Impex and M/s. Serco Import and Export Private Limited, it was observed that the goods appeared to be plain glass bangles out of which many were in broken state. Some were wrapped in Hindi newspapers of Firozabad. On that basis an inference was drawn that there was circular trading of glass bangles to avail ineligible government benefits in the form of IGST etc.

**15.** Following the above, a search was conducted in the premises of Mr. Uzair Basar, a resident of Tardeo, Mumbai, on 25th February, 2019 wherein 129 stamps of various companies were found including M/s. Dunox Trading and Export Private Limited i.e., petitioner in Writ Petition (St.) No. 5670 of 2020, M/s. Ronera Overseas Private Limited, M/s. Boxster Impex Private Limited i.e., petitioner in Writ Petition (St.) No. 5669 of 2020, M/s. Serco Import and Export Private Limited and M/s. Elantra Exports Private Limited i.e., petitioner in Writ Petition (St.) No. 5666 of 2020.

**16.** It is stated that the activities of the above companies are being investigated.

**17.** That apart, information was received from the Joint Commissioner of State Tax on 12th July, 2019 that petitioner had obtained GST registration on the basis of forged documents. Partner of the supplier of glass bangles M/s. Raja Bangles Store was examined and the partner made a statement that the business of bangles was totally GST free and no GST was paid to the government.

**18.** Statement of Mr. Uzair Basar was recorded wherefrom it appears that he was exporting the goods on behalf of all the above mentioned companies.

**19.** No goods of the petitioner have been seized under section 110 of the Customs Act, 1962 (briefly “the Customs Act” hereinafter). Therefore, there is no question of any provisional release. However, export goods of some of the companies like M/s. Ronera Overseas Private Limited and import goods of M/s. Alan Impex and M/s. Serco Import and Export Private Limited



were put on hold and seized by the department. Subsequently, even those goods were granted provisional release on furnishing bond and bank guarantee though the export goods could not be handed over to the concerned exporting party due to failure to comply with the conditions imposed which should not be a cause of concern for the petitioner.

**20.** It is stated that by his activities Mr. Uzair Basar has created a complex maze of various fictitious firms to defraud government revenue for which detailed investigation needs to be carried out. However, Mr. Uzair Basar has not cooperated with the investigation for which investigation could not be completed on priority basis. That apart, ownership of the goods has not yet been established.

**21.** Unfreezing of the frozen bank account of the petitioner would cause huge loss to the department. In so far claim to IGST and other dues are concerned, it is stated that Mr. Uzair Basar has already obtained benefits to the tune of Rs.9.86 crores fraudulently. Petitioner is a fake entity which has never presented itself before the department to evade scrutiny. The affiant has described the petitioner as hardened criminal who has carried out the illegal activities of circular trading with the sole objective to loot government revenue.

**22.** Petitioner has filed rejoinder affidavit. In the rejoinder affidavit all the above allegations have been denied and averments made in the writ petition have been reiterated. It is stated that petitioner is carrying on the business activity of exports of handcrafts being manufactured in various parts of India which has a huge demand in the foreign market. After identifying overseas purchases of handicraft items, petitioner procured the goods from various manufacturers / traders under proper GST paid invoices. Payments were made through banking channels which have been duly accounted for in the books of account maintained by the petitioner. All the previous exports of the petitioner were allowed clearance by following the due process. Merely on obtaining one rubber stamp from the premises of Mr. Uzair Basar cannot lead to any adverse inference that the petitioner is engaged in circular trading. Allegations against the petitioner are based on presumptions and assumptions. Petitioner has cooperated in the investigation. Regarding freezing of bank account, reference has been made to sub-section (5) of Section 110 of the Customs Act and it is submitted that freezing of the bank account of the petitioner could not have been carried out under the said provision which came into effect subsequently on 1st August, 2019.

**23.** Learned counsel for the petitioner submits that the impugned action of the respondents is wholly illegal and arbitrary. Section 110(5) of the Customs Act could not have been invoked to freeze the bank account of the petitioner. Even if the said provision is applied, conditions precedent for invoking the same have not been complied with by the respondents and therefore, freezing of the bank account and continuing with the same is without any authority of law. In so far putting of alert on IEC of the petitioner is concerned, learned counsel for the petitioner submits that merely on the basis of suspicion such an alert cannot be placed on the petitioner's IEC thereby completely restraining the petitioner from carrying on its legitimate business activities of export and import. Likewise, he submits that under Section 41 of the Central Goods and Services Tax Act, 2017 petitioner is entitled to refund of the tax paid. Withholding of the same is wholly unjustified and liable to be appropriately interfered with by the court.

**24.** Mr. Jetly, learned senior counsel for the respondents on the other hand supports the action taken by the respondents. He submits that it is a case of circular trading and by such unlawful activity petitioner has defrauded government revenue substantially and in the process has made unlawful gain. By continuing such action possibility of further defrauding the government revenue cannot be ruled out.

**25.** Submissions made by learned counsel for the parties have received the due consideration of the court.

**26.** From the pleadings and submissions it is seen that three grievances have been raised by the petitioner, viz,

- (i) Freezing of its bank account;
- (ii) Putting an alert on its IEC;
- (iii) Issuing directions for withholding GST / IGST dues.

**27.** We take up the first grievance for consideration at the outset. Ex.A to the writ petition is a letter dated 1st March, 2019 issued from the office of the Principal Commissioner of Customs(P) to the Branch Manager, IDFC Bank, Mumbai stating that office of the Principal Commissioner of Customs was investigating a case of misuse of export documents to claim inadmissible dues, drawback and IGST refund by M/s. Dunox Trading and Export Private Limited. Reference was made to the current account of the petitioner in the said bank. While the Branch Manager was called upon to provide certain

details of the bank account he was also requested not to allow any withdrawal from the said account and operation of locker without prior permission. This is the only document on record on the basis of which the bank account of the petitioner has been effectively frozen. In the affidavit in reply filed on behalf of respondent No. 1 the only statement made in respect of freezing of the bank account is in paragraph 26 wherein it is stated that unfreezing the frozen bank account would cause huge loss to the department.

**28.** Section 110 deals with seizure of goods, documents and things. Sub-section (5) was inserted in Section 110 by the Finance (No. 2) Act, 2019 with effect from 1st August, 2019. Sub-section (5) of Section 110 reads as under :-

“Where the proper officer, during any proceedings under the Act, is of the opinion that for the purposes of protecting the interest of revenue or preventing smuggling, it is necessary so to do, he may, with the approval of the Principal Commissioner of Customs or Commissioner of Customs, by order in writing provisionally attach any bank account for a period not exceeding six months.

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform such extension of time to the person whose bank account is provisionally attached, before the expiry of the period so specified.”

**29.** From the above it is evident that the said provision was inserted in the statute with effect from 1st August, 2019. Besides, from the tone and tenor of the sub-section it is apparent that it is not a procedural provision per se; rather it is coercive in nature, though the procedure is also laid down for giving effect to the said provision. Being a coercive provision, there has to be strict compliance to the procedure laid down. In such circumstances and having regard to its very nature, such a provision can only have prospective operation and not retrospective operation. Infact, the concerned Finance Act makes it explicit by making the provision effective from a prospective date i.e. from 1st August, 2019.

**30.** Letter from the office of the Principal Commissioner of Customs to the Branch Manager of IDFC Bank was issued on 1st March, 2019 for freezing of the bank account of the petitioner. This was prior to insertion of sub-section (5) in Section 110 with effect from 1st August, 2019. Therefore, it is quite

2021)

**Boxster Impex Vs. Union of India (Bom)**

49

clear that this provision could not have been invoked for freezing the bank account of the petitioner.

**31.** Even otherwise, we find that the above provision can only be invoked in the manner provided therein which can be culled out as under :-

- (i) The order of attaching the bank account provisionally shall be passed in writing by a proper officer;
- (ii) Such an order can be passed during any proceedings under the Customs Act;
- (iii) Before passing such an order the proper officer must form an opinion that such attachment of bank account is necessary for the purposes of protecting the interest of revenue or for preventing smuggling;
- (iv) Before passing such an order the proper officer must obtain prior approval of the Principal Commissioner of Customs or of Commissioner of Customs; and
- (v) Such provisional attachment shall be for a period not exceeding six months.

**32.** As per the proviso the Principal Commissioner of Customs or Commissioner of Customs can extend such provisional attachment for a further period not exceeding six months; but he must record reasons for such extension and such extension of period has to be informed to the person whose bank account is provisionally attached before expiry of the period so specified.

**33.** Thus from a careful reading of sub-section (5) of Section 110 it is noticeable that several pre-conditions and procedures are mandated. It may not be necessary for an elaborate deliberation of the same in view of the fact that respondents in their affidavit have not placed on record any order passed by the Principal Commissioner of Customs or Commissioner of Customs under sub-section (5) of Section 110. Suffice it to say that an order in writing for provisional attachment of a bank account is a must before such an account can be attached. In the absence of such an order in writing respondents could not have provisionally attached the bank account of the petitioner and continued with such attachment even beyond the permissible extended period.

**34.** Learned counsel for the respondents could not show any other provision in the Customs Act which empowers or authorizes the customs department

to freeze the bank account of a person other than sub-section (5) of Section 110. Such attachment of bank account of the petitioner on 1st March, 2019 and its continuation thereafter being in breach of Section 110(5) is therefore, without any authority of law.

**35.** Coming to the second and third grievance of the petitioner, we are of the view that alert has been placed on the IEC of the petitioner on the basis of materials which are presently under investigation of the customs department. For the said reason, refund of IGST/GST dues has also been held up. However, we feel that the investigation needs to be expedited and taken to its logical conclusion one way or the other because extreme measures such as placing of alert on IEC and withholding of IGST/GST dues can not be continued for an indefinite period. The same cannot be continued adinfinitum merely on the basis of suspicion, howsoever strong such suspicion may be.

**36.** Before issuing the final directions and parting with the record, we may make an observation on the averments made in the affidavit-in-reply filed on behalf of respondent No. 1. The affiant in the said affidavit has described the petitioner as a hardened criminal with the sole objective of looting government revenue. We find that nothing has been mentioned in the affidavit about any conviction of the petitioner in any criminal case or charge-sheeting of the petitioner in any criminal case nor naming of the petitioner as an accused in any first information report. In the absence of such material, referring to any person as a hardened criminal that too in a sworn affidavit filed before the High Court is not proper. The affiant or for that matter any one swearing affidavit before the court should be careful in making averments which in any event should be restrained. We say this and no further.

**37.** Thus, having regard to the discussions made above, we are of the view that the following directions will meet the ends of justice:-

- (i) Respondents are directed to unfreeze the bank account of the petitioner bearing No. 10025372568 with IDFC Bank, Andheri (E) Branch forthwith;
- (ii) Respondents are also directed to complete the investigation into the allegations against the petitioner within a period of three months from the date of receipt of a copy of this order;
- (iii) Placing of alert on Import Export Code of the petitioner or claim of refund of IGST/GST would be subject to outcome of such investigation.

**38.** Ordered accordingly.

**2021) Geep Industries (India) Vs. Union of India (Gau) 51**

**39.** The above directions would be equally applicable in the case of the petitioners in Writ Petition (St.) Nos.5669 of 2020 and 5666 of 2020.

**40.** All the writ petitions are accordingly allowed in the above terms. However, there shall be no order as to cost.

**41.** This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

□

**(2021) 66 TLD 51**

In the High Court of Gauhati  
Hon'ble Manash Ranjan Pathak, J.  
**Geep Industries (India) Pvt. Ltd.**

**Vs.**

**Union of India and 7 Ors.**

W.P. (C) No.: 3695/2020

October 5, 2020

***Deposition : In favour of Petitioner***

**Transitional provisions - Input tax credit - The High Court directed the GST Council will to look into the grievance of the petitioner, so that the petitioner may file TRAN-1 form either electronically or manually, as the case may be - Petitioner is not deprived of the ITC, which is due to him.**

**Writ petition disposed of**

Dr. A Saraf for the petitioner.

Asstt. S.G.I. for the respondents.

**:: ORDER ::**

Heard Dr. A. Saraf, learned senior counsel assisted by Mr. Z. Islam, learned counsel for the petitioner and Mr. S.C. Keyal, learned Standing Counsel, CGST for all the respondents.

On 19-9-2019, the following order was passed by this Court in WP (C) No. 1738/2019:

“Heard Dr. A. Saraf, learned senior counsel assisted by Mr. Z. Islam, learned counsel for the petitioner. Also heard Mr. B. Choudhury, learned standing counsel for the Finance and Tax Department and Mr. S. C. Keyal,

learned Asstt. SGI.

2. In this petition, the petitioner has assailed the act of the respondent No. 2 namely, the Commissioner, Central Goods and Service Tax, Assam in not allowing the petitioner to submit the GST TRAN-2 return in relation to Part 7A either electronically or manually in terms of the statement made before this Court earlier by the respondent authorities.

3. It has been stated that the petitioner had earlier approached this Court by filing a writ petition being WP (C) No. 4901/2018, challenging the non acceptance of GST TRAN-2 return from July 2017 onwards by the GST portal and also for non consideration of complaints lodged by the petitioner before the respondent authorities regarding non acceptance of TRAN-2 return submitted by the petitioner company in the GST portal.

4. This Court after hearing the parties passed the following order:

*“Heard Dr. A. Saraf, learned senior counsel for the petitioner. Also heard Mr. S.C. Keyal, learned ASGI for the respondent Nos. 1, 2, 5 and 6 and Mr. B. Choudhury for the respondent Nos. 3 and 4.*

*2. This petition is taken up for its final consideration on the basis of the submission made by Mr. S.C. Keyal, learned ASGI that the authorities under the GST Act are willing to facilitate the submission of Form GST TRAN-2 in relation to Part-7A, either enabling the petitioner to file the same electronically or to provide adequate mechanism for filing the same manually.*

*3. The petitioner which is a private limited company engaged in the trade of dealing in food items, edibles, FMCG etc. is aggrieved to the extent that although they are registered under the Central Goods and Service Tax Act, 2017 (in short CGST Act of 2017), but they are unable to submit the Form GST TRAN-2 in relation to Part- 7A. According to the petitioners, they have submitted TRAN-1 return in a proper complete and correct manner. But inspite of such filing, the GST portal does not reflect the value of the stock returned by the petitioner; against which he is entitled to get import credit on filing of TRAN-2 return. Although initially, the Commissioner of Taxes had submitted a written instruction that if the portal does not reflect the value of the stock submitted under TRAN-1 in such event, the GST TRAN-2 in relation to Part-*



*7A cannot be accepted.*

*4. The instruction was found to be unacceptable in the form it was presented inasmuch as, there were allegations that the GST portal was not functioning in its proper manner at all times. Against the said situation, the Commissioner was required to explain as to what would be the remedy available for the assessee in such circumstance.*

*5. Today when the matter is taken up, Mr. S.C. Keyal, learned ASGI makes a statement on behalf of the GST Commissioner that in the aforesaid circumstance, the petitioner may submit a representation stating in detail all their grievances and upon the representation being filed, the Commissioner would give a due consideration to the matter and make necessary arrangement so as to enable the petitioner either to submit the Form GST TRAN-2 in relation to Part-7A electronically or in the event, the portal is not functioning in proper manner, appropriate arrangement would be made that the same be filed manually.*

*6. In view of such stand, this petition stands disposed of in the above term and by providing that in the event, the application is filed, the GST Commissioner shall do the needful to ensure that the petitioner is able to submit the Form GST TRAN-2 in relation to 7A either electronically or manually as may be convenient to the authorities. In the event, the petitioner has any difficulty in submitting the form, liberty is granted to approach the Court again, if so advised.*

*7. Writ petition is accordingly disposed of.”*

**5.** The grievance of the petitioner is that in spite of specific direction by this Court to allow the petitioner to submit GST TRAN-2 either electronically or manually, the authorities have not allowed to file electronically or manually the same on the ground that the petitioner has not been able to show that there was genuine difficulty on the part of the petitioner to upload the form.

**6.** On the other hand, learned senior counsel for the petitioner states that as regards glitches in the portal, which resulted in the non uploading of data it will be impossible for the petitioner to prove that he did not made all efforts or that there was no negligence on the part of the petitioner to upload the same.



7. It has been submitted by the learned senior counsel for the petitioner that because of the aforesaid refusal of the authorities in accepting the TRAN-2 form electronically as well as manually, it will deprive the benefit of input tax credit, which would be otherwise available to the petitioner on filing of the returns, as mentioned above.

8. Mr. S.C. Keyal, learned Asstt. SGI has, however, submitted on written instruction received that it is the stand of the respondents as indicated in the affidavit-in-opposition filed that the Commissioner of GST, Guwahati duly examined the petitioner's grievances and it was found that petitioner filed his TRAN-1 successfully, however, petitioner did not submit information in his TRAN-1 correctly and did not revise his return within the stipulated time frame. However, the Commissioner of GST, Guwahati has duly forwarded the matter to the higher authorities on 5-10-2018 for taking up the matter with Central Board of Indirect Tax Custom (in short 'the Board')/GST Council so that the petitioner is allowed to make amendment in his TRAN-1.

9. Accordingly, it has been further stated that the Board issued a letter dated 13-11-2018 to all the concerned by making it clear that if non-submission of due of requisite declaration is not traceable due to any technical glitch, re-opening of the portal for filing requisite declaration or allowing manual declaration of requisite form may not be in consonance with the current statutory framework of GST law.

10. This Court is of the view that if there is a provision made for filing returns electronically and if because of certain technical glitches uploading could not be done in time, on that ground the concerned individual or firm ought not to be put to a disadvantageous position.

11. It is not the case that the petitioner is not willing to file any return or seeking time for filing return on various grounds. The case of the petitioner is that though the petitioner was ready to file TRAN-2 electronically, the same could not be done as the portal was not working, because of which he had approached the authorities for allowing him to submit the form manually also, which in fact was considered by this Court as referred above and directed the authorities to allow the petitioner to file the form, either electronically or manually, as the case may be.

12. However, as regards this claim of the petitioner that he had made all the attempts to file electronically but because of computer glitches, the same

**2021) Varahamurti Flexirub Ind. Vs. State of Kerala (Ker) 55**

could not be filed and as also been mentioned in the affidavit-in-opposition that the GST Council has been apprised of the same and as also agreed by the learned senior counsel for the petitioner, the GST Council respondent No. 5 therein will examine the said grievance of the petitioner and allow him to file the return either electronically or manually, as they may decide, so that the petitioner is not deprived of the ITC, which is due to him.

**13.** The aforesaid exercise shall be undertaken within a period of three weeks from the date of receipt of a certified copy of this order.”.

It is submitted by the learned counsels for the parties that this petition can also be disposed of with similar directions and accordingly, respondent No. 3, the GST Council will look into the grievance of the petitioner, so that the petitioner may file TRAN -1 form either electronically or manually, as the case may be, which exercise shall be undertaken within a period of three weeks from the date of receipt of a certified copy of this order to be furnished by the petitioner.

The writ petition stands disposed of.

□

**(2021) 66 TLD 55**

In the High Court of Kerala  
Hon’ble A.K. Jayasankaran Nambiar, J.  
**Varahamurti Flexirub Industries Pvt. Ltd.**  
**Vs.**

**The State of Kerala & Others**  
W.P. (C). No.: 21626 of 2020(C)  
October 14, 2020

***Deposition : In favour of Petitioner***

**Detention, seizure and release of goods and conveyances in transit - Section 129(3) of the CGST Act, 2017 - The High Court directed the respondents to release the goods and the vehicle on the petitioner furnishing a Bank guarantee for the amount demanded and the petitioner afforded an opportunity of hearing, before passing the final order in Form GST MOV-9.**

**Writ petition disposed of**

SDr. K.P. Pradeep, Shri. Hareesh M.R., Sri. T.T. Biju & Smt. T. Thasmi,  
Advocates for the petitioner. GP DR Thushara James for the Respondents.

**:: JUDGMENT ::**

The petitioner has approached this Court aggrieved by Ext.P11 notice issued to him under Section 129(3) of the Goods and Service Tax Act ('the GST Act' for short) detaining his goods and vehicle. On a perusal of Ext.P11 notice, I find that the objection of the respondent was essentially that the value of the goods as shown in the e-way bill in the e-way bill portal was seen to be different from that shown in the hard copy of the e-way bill that was tendered by the driver of the vehicle to the authorities. The learned counsel would submit that the e-way bill that was uploaded in the portal contained the value that was originally ascribed to the goods in question, and at the time of transportation of goods, additional goods of relatively lower value were also entrusted with the transporter and a revised invoice as well e-way bill generated to cover the said transaction. He submits however, that the revised e-way bill could not be uploaded into the system before the commencement of the transportation and that is how the discrepancy arose when the authorities checked the transportation.

**2.** I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find that while the explanation offered by the petitioner is one that ought to be considered by the respondents before passing the final order under Section 129(3) of the GST Act in Form GST MOV-9, the petitioner can be permitted to obtain a release of his goods and vehicle on furnishing a Bank guarantee for the amount covered by Ext.P11 notice. Accordingly, the writ petition is disposed by directing the respondents to release the goods and the vehicle to the petitioner, on the petitioner furnishing a Bank guarantee for the amount demanded in Ext.P11, making it clear that the objections furnished by the petitioner shall be duly considered by the respondents, and the petitioner afforded an opportunity of hearing, before passing the final order in Form GST MOV-9, in accordance with Section 129(3) of the GST Act. The learned Government Pleader shall communicate the gist of this order to the respondent, so as to enable the petitioner to effect the expeditious clearance of the goods and the vehicle on the terms indicated above. The petitioner shall produce a copy of the writ petition together with a copy of this judgment, before the respondents, for further action.



2021)      **Jaitron Communication Vs. State of U.P. (All)**      57

(2021) 66 TLD 57

In the High Court of Allahabad  
Hon'ble Ashwani Kumar Mishra, J.  
**Jaitron Communication Pvt. Ltd.**  
Vs.

**State of U.P. and 2 Others**

Writ Tax No.: 231 of 2020

September 24, 2020

*Deposition : In favour of Petitioner*

**E-way bill - Penalty - Detention, seizure and release of goods and conveyances in transit - Section 129 of CGST Act, 2017 - E-way bill with the vehicle did not contain correct description with regard to movement of goods - The proper Officer in terms of the scheme was expected to examine the specific defence set up by the petitioner and consequently determine the liability of tax payable by the petitioner - It is only after determining the liability to pay tax that the liability to pay penalty could be determined.**

**Writ petition disposed of**

Nishant Mishra & Bimal Jain, Counsel for the Petitioner

C.S.C. Counsel for the Respondent

**:: ORDER ::**

This petition has been filed under Article 226 of the Constitution of India directly against the order passed by the Proper Authority and first appellate authority, while exercising jurisdiction under Section 129 of the Central Goods and Services Tax Act, 2017, since the G.S.T. Tribunal has not been constituted so far by the Central Government for the State of Uttar Pradesh. It is urged that statutory right of the petitioner to approach the Tribunal cannot be taken away once the Act itself has been enforced. Attention of the Court has been invited to Section 112(3) and 113(1) of the Act which defines the jurisdiction of the C.G.S.T. Tribunal. Section 112(3) and Section 113(1) of the Act is reproduced hereinafter:-

“112(3) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act

for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

113(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.”

Learned counsel for the petitioner with reference to the above provision contends that the appeal before the Tribunal is not confined to question of law alone, but even factual issues are also open for examination before the Tribunal. Had such an opportunity be given, the petitioner could have addressed the Tribunal on factual issues also. It is, therefore, submitted that while exercising jurisdiction under Article 226 of the Constitution of India this Court may keep in view the above provisions so as to protect the rights of the petitioner with regard to statutory remedy available before the Tribunal, at the first instance.

A perusal of record would go to show that transport Vehicle No. U.P. 70 A.T. 5360 was detained by the C.G.S.T. authorities on 9-1-2020 at 6:20 A.M. on Yamuna Expressway while it was transporting a drilling machine. The driver of the vehicle produced an E-way bill electronically as per which the machine was being transported from SD Technologies Kisan Vihar, Ghansoli, Maharashtra to Sector 3, Block 10 Rajendra Nagar, Ghaziabad. The value of the machine along with tax was shown as Rs.41,30,000/-. No tax invoice, chalan, hard copy etc. was found with the vehicle. Finding it to be a violation of Rule 138 of the G.S.T. Rules the vehicle was detained and a notice was issued to the petitioner under Section 129(3) of the Act.

In reply to the notice issued under Section 129(3) of the Act, the petitioner stated that the E-way bill available with the driver was mistakenly generated inasmuch as it related to purchase of drilling machine in 2018 itself, and that the correct E-way bill No.441103629039 has also been generated as per which the equipment was being sent to M/s Sharda Equipment,

Jharkhand pursuant to a job work awarded to the petitioner for drilling bore wells. Along with the supplementary affidavit, filed today, the petitioner has also send a letter dated 14-1-2020 to the proper officer as per which the machine was being sent for performance of job work and that there existed no other motive for sending drilling machine.

The Assessing Authority has considered the reply of the petitioner and has found that in the e-way bill available with the driver at the time of detention the machine was shown to be in transit from Maharashtra to Ghaziabad, with the value of the commodity with tax disclosed at Rs.41,30,000/-. The authority has observed that admitted tax of Rs. 6,30,000/- since has not been paid as such this amount together with 100% penalty is liable to be paid by the petitioner. This order has then been affirmed in appeal. Aggrieved by these two orders the petitioner is before this Court.

Learned counsel for the petitioner with reference to the pleadings made in the writ petition submits that the machine in transit is actually a horizontal direction drilling machine which was to be utilised by the assessee for performance of job cotranct given by M/s Sharda Equipment, Jharkhand. It is submitted that this machine was purchased in the year 2018 from Maharashtra and the amount of GST payable for such purchase has already been paid in the year 2018 itself. It is submitted that while passing order under Section 129(3) of the Act the Assessing Authority is expected to determine the amount of tax and penalty payable and release the seized goods upon deposit of such amount. Submission is that the Assessing Authority and the first Appellate Authority have failed to examine petitioner's claim on merits with regard to execution of job work and the consequential liability to pay tax and penalty. It is also urged that job work since is yet to be performed and no payment is made, therefore, no amount is actually payable towards tax.

Per contra, learned Standing Counsel submits that the authorities have correctly assessed the liability of tax and penalty on the basis of admitted materials and, there is no illegality in the order itself.

I have heard Sri Nishant Mishra, learned counsel for the petitioner and Sri B.K. Pandey, learned Standing counsel and have examined the materials on record.

Section 129 provides for detention, seizure and release of goods and conveyance in transit. In the event it is found that transportation of goods

is in contravention of the provisions of the C.G.S.T. Act or Rules made there under then the competent authority is empowered to detain and thereafter seize goods and vehicle. It is only upon payment of applicable tax and penalty specified under Section 129(1) that such goods can be released. Section 129(1) and sub-Section 3 of Section 129 is reproduced hereinafter:-

*“129 (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released, -*

*(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;*

*(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;*

*(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed: Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.*

*129(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).”*

Release of seized goods and vehicle can only be upon payment of application tax and penalty as per the rates specified under Section 129(‘a’, ‘b’ or ‘c’). For the purposes of specifying tax and penalty payable in terms



of above provisions the proper officer is expected to issue a notice specifying the tax and penalty payable and thereafter pass an order for payment of tax and penalty. It is therefore expected that the proper officer will give an opportunity and thereafter examine the defence set up by the assessee, in response to the notice issued under sub-Section 3, and determine the amount payable towards tax and penalty.

In the facts and circumstances of the present case the petitioner has urged that e-way bill available with the vehicle at the time of detention did not contain the correct description of the transaction for which the machine itself was being transported. As per the assessee the movement of machine was for performance of contract to supply services and, therefore, by virtue of Section 7, 9 and 13 read with 31 of the Act the nature of transaction as also the liability to pay tax has to be determined. According to petitioner in terms of the above provisions no liability to pay tax has yet arisen as the contract of service is yet to be performed and no payment for services has yet been received. It is submitted that the authorities have not correctly examined facts in light of the claim set up by it and, therefore, the orders passed are unstained.

Admittedly, in the facts of the present case the petitioner did accept that the e-way bill with the vehicle did not contain correct description with regard to movement of goods. Another e-way bill (though not available with the vehicle, at the time of detention) has also been produced along with details of job work executed in favour of the petitioner. The tax invoice which has been relied upon for determining the liability of tax admittedly is of the year 2018 and it is not the case of the Department that such amount of tax was not paid at the time when the machine was purchased in the year 2018 itself. It is also not the case of the Department that this machine has been sold to anybody. The specific case of the petitioner before the proper Officer was that this machine was being transported for performance of job work and not for any other work.

Perusal of the orders passed would clearly go to show that the claim set up by the assessee with regard to transportation of machine for performance of job work has not been examined on merits. There is also no consideration or finding in the orders passed by the authority which may suggest that this transportation of machine was for any other purpose. The proper Officer in terms of the scheme was expected to examine the specific defence set up by the petitioner and consequently determine the liability of



tax payable by the petitioner. It is only after determining the liability to pay tax that the liability to pay penalty could be determined. This exercise does not appear to have been performed by the proper Officer in the manner expected by it in accordance with the Act. Petitioner's claim that no liability to pay tax had arisen till the time when the machine was being transported is also required to be examined. Such factual issues require proper determination at the level of the proper Officer, at the first instance. Since the exercise in that regard is not found to be in accordance with law the orders impugned dated 28-1-2020 and 6-2-2020 cannot be sustained and are accordingly quashed. Petitioner shall appear before the proper Officer on 5-10-2020 and shall furnish all such details as are available with it to substantiate its plea already been taken in its reply on 14-1-2020. The proper Officer is requested to examine such defence of the petitioner and thereafter determine the liability, if any, in accordance with law. It is made clear that this Court has not determined the liability of the petitioner on merits and all issues of fact are left open to be examined by the proper Officer, at the first instance. Such exercise be undertaken expeditiously by the proper Officer, preferably within a period of four weeks. Depending upon the outcome of such proceedings, it shall be open for the authorities to proceed further in accordance with law.

□

(2021) 66 TLD 62

In the High Court of M.P.  
Hon'ble Ravi Shankar Jha & Nandita Dubey, JJ.

**Arihant Traders**

**Vs.**

**Managing Director Madhya Pradesh State Minor Forest Produce  
Cooperative Federation Ltd.**

W.P. No. : 18352-2015

January 9, 2018

**Pending adjudication - As there is an interim order of Appellate Board in favour of the petitioners operating since the date of the filing of the petition, the present petitions are disposed of with a direction to the effect that the respondent/Federation shall not make any steps towards encashment of the bank guarantee.**

Shri Sanjay Mishra, learned counsel for the petitioners. Shri Deepak Awasthi, learned Deputy Advocate General for the respondent/State.

**:: ORDER ::**

Having heard the learned counsel for the parties at length, it is stated by the learned counsel appearing for the parties that the issue as to the liability of the respondent/Federation to pay tax on the auction sale of Tendu Patta by treating it to be an inter-state sale or intra-state sale is pending adjudication before the M.P. Commercial Tax Appellate Board wherein the Board has granted an interim order in favour of the respondent/Federation on 1-1-2014 preventing the Commercial Tax Department from recovering the tax liability from the respondent.

The learned counsel for the parties agree and do not dispute the fact that as per the agreement between them, in case the respondent/Federation is ultimately saddled with the liability to pay tax at the enhanced rate by treating the same to be an intra-state sale, the petitioners/dealers would reimburse the same including the interest and in case the Appellate Board ultimately holds the sales to be inter-state sales and no liability is fasten upon respondent/Federation no consequent recovery would be made from the petitioners.

In view of the aforesaid statements on agreement made by the parties and the fact that the matter is pending adjudication before the Appellate Board which has granted an interim order in favour of the respondent/Federation and as there is an interim order in favour of the petitioners operating since the date of the filing of the petition, the present petitions are disposed of with a direction to the effect that the respondent/Federation shall not make any steps towards encashment of the bank guarantee furnished by the petitioners till the dispute is finally decided by the Appellate Board and that, subject to the adjudication of the same, the petitioners if so required would reimburse the respondent/Federation of the tax liability and interest, if any, imposed upon them. The petitioners undertake to the fact that the petitioners shall keep the same alive.

As the appeal is pending before the Appellate Board since 2014, the Appellate Board is directed to consider and decide the appeal expeditiously in accordance with law preferably as far as possible within a period of six months.

With the aforesaid direction/observation the petition filed by the petitioners, stands disposed of.



**[01] AAR-AP - Construction services - Composite Supply of Works Contract - Government Entity - For accommodating Small and Medium Enterprises (SMEs) and Startups - Classifiable under SAC heading No. 9954 and the applicable rate of tax is 18%.**

**Ruling :** The activity of the applicant under the said agreement with M/s. APIIC is a Composite Supply of Works Contract as defined in clause 119 of Section 2 of Central Goods and Services Act, 2017.

M/s. APIIC is a Government Entity within the meaning of para 4 of clause (x) of Notification No. 11/2017-CT (Rate) dated 28-6-2017 as amended by Notification No. 31/2017-CT (Rate) dated 13-10-2017.

As the purpose of the construction / building is meant for accommodating Small and Medium Enterprises (SMEs) and Startups, which are not other than for commerce, industry, or any other business or profession, the concessional rate of 12% under Notification No. 24/2017-Central Tax (Rate) dated 21-9-2017 read with Notification No. 31/2017-Central Tax (Rate) dated 13-10-2017 is not available to the applicant.

The activities under the agreement referred by the applicant are classifiable under SAC heading No. 9954 under construction services, which fall under entry No. (ii) of serial No. 3 of notification No. 11/2017 Central Tax (Rate) dated 28-6-2017 and the applicable rate of tax is 18% (9% Central Tax Plus 9% State Tax).

***KPC Projects Limited [25-11-2019] (AAR-AP)***

---

**[02] AAR-AP - Tobacco leaves - GST Rate of tax on tobacco leaves under different conditions.**

**Ruling : Question (a):** What is the rate of GST applicable on tobacco leaves procured at tobacco auction platforms or directly from farmers, which are cured and dried by farmers themselves?

**Answer:** The GST Rate of tax for the tobacco leaves procured at tobacco auction platforms or directly from farmers, which are cured and dried by farmers themselves is 5% as per the notification 4/2017 Central Tax (Rate) under 'Reverse charge'.

**Question (b):** What will be the applicable rate of tax if the applicant purchases tobacco leaves from other dealers who have purchased them from farmers, for the purpose of trading?

**Answer:** 5% (2.5% SGST + 2.5% CGST) as per Sl.No.109 of schedule I Notification No. 1/2017 Central Tax (Rate) dated 28-6-2017.

**Question (c):** What will be the applicable rate of tax if the applicant segregates the tobacco into grades depending upon their size (width), colour /shade, length, texture of the leaf etc., and sells such graded tobacco leaf?

**Answer:** 5% (2.5% SGST + 2.5 % CGST) as per Sl.No.109 of schedule I Notification No. 1/2017 Central Tax (Rate) dated 28-6-2017.

**Question (d):** What will be the applicable rate of tax if the tobacco leaves are butted and sold to other dealers?

**Answer:** 5% (2.5% SGST + 2.5% CGST) as per Sl.No.109 of schedule I Notification No.1/2017 Central Tax (Rate) dated 28-6-2017.

**Question (e):** What is the applicable rate of tax if the applicant gets the tobacco leaves re-dried without getting them threshed and sold them?

**Answer:** 5% (2.5% SGST + 2.5% CGST) as per Sl.No. 109 of schedule I Notification No.1/2017 Central Tax (Rate) dated 28-6-2017.

**Question (f):** What will be the applicable rate of tax if the applicant gets the tobacco leaves threshed and re-dried?

**Answer:** 28% (14% SGST +14% CGST) as per Sl.No. 13 of Schedule IV Notification No.1/2017 Central Tax (Rate) dated 28-6-2017.

**Question (g):** What will be the applicable rate of tax if the applicant gets the tobacco threshed and re-dried on job work basis at others' premises and then sells such threshed and re-dried tobacco leaves to others?

**Answer:** 28% (14% SGST +14% CGST) as per Sl.No. 13 of Schedule IV Notification No.1/2017 Central Tax (Rate) dated 28-6-2017.

***Deccan Tobacco Company [24-10-2019] (AAR-AP)***

---

**[03] AAR-AP - Works contract - Supply and erection of Indoor Sub stations and their connected lines.**

**Ruling :** The Applicant is not entitled for the benefit of concessional rate of GST @12% (6% under Central tax and 6% State tax) in terms of Notification No. 24/2017-Central Tax (Rate) dated: 21-9-2017 read with Notification No. 31/2017-Central Tax (Rate) dated: 13-10-2017.

The applicable rate of tax is 18% (9% under Central tax and 9% State tax) for the services referred by the Applicant as per entry No. (ii) of S.No.

3 of the table of Notification No. 11/2017-Central Tax (Rate), Dated: 28th June 2017.

The value of materials recovered on cost recovery basis by the Contractees from the R.A. bills issued by the applicant is includible in the taxable value of supply in terms of Section 15(2)(b) of the CGST Act, 2017.

***GVS Projects Pvt. Ltd. [31-10-2019] (AAR-AP)***

---

**[04] AAR-AP - Flex - The supply of print on flex is classified under Goods falls under HSN 4911 and attracts tax rate of 12%.**

**Ruling : Question 1:** Whether supply of print on flex is classifiable as supply of goods or service?

**Answer 1 :** The supply of print on flex is classified under Goods only as per Section 7 of CGST Act, 2017 read with Schedule-II Sl.No.1 (a) of CGST Act, 2017.

**Question 2:** If yes, whether falls under HSN 4911 under entry No. 132 of Schedule II of Notification 1/2017- CTR?

**Answer 2:** It is classifiable vide Notification No. 1/2017 Central Tax (Rate) dated 28-6-2017 under Sl.No.132 Chapter/Heading/Sub-Heading/Tariff item 4911 and attracts tax rate of 12% (CGST 6% + SGST 6%).

**Question 3:** If answer to question 2 is yes, whether supply of print on flex non-commercial purpose is also classifiable under HSN 4911 under entry No. 132 of Schedule II of Notification 1/2017- CTR?

**Answer 3:** Supply of print on flex used for non-commercial purpose does not change the classification per se and attracts same rate of tax as mentioned above.

***Sree & Co. [9-12-2019] (AAR-AP)***

---

**[05] AAR-AP - Poly Vinyl Chloride banners - The supply of printed trade advertisement material is classified under Goods falls under HSN 4911 and attracts tax rate of 12%.**

**Ruling : Question 1:** Whether the transaction of printing of content provided by the customer, on poly Vinyl Chloride banners and supply of such printed trade advertisement material is supply of goods.

**Answer 1:** The supply of printed trade advertisement material is classified under Goods only as per Section 7 of CGST Act, 2017 read with Schedule-

II Sl.No.1 (a) of CGST Act, 2017.

**Question 2.** What is the classification of such trade advertisement material if the Transaction is a supply of goods?

**Answer 2:** It is classifiable vide Notification No. 1/2017-Central Tax (Rate) dated 28-6-2017 under Sl.No.132 Chapter/Heading/Sub-Heading/Tariff item 4911 and attracts tax rate of 12% (CGST 6% + SGST 6%).

**Macro Media Digital Imaging Pvt. Ltd. [10-12-2019] (AAR-AP)**

---

**[06] AAR-AP - Tamarind Seed - Seeds of Tamarind trees are nothing but seeds of forest trees which Tamarind seed is classified under HSN code 1207 and attracts tax rate of 5%.**

**Ruling :** The Tamarind Seed as referred by the applicant is classified under schedule-I as per Sl.No. 70 of Chapter/Heading/Sub-Heading/Tariff Item of 1207 as per the table of Notification No. 1/2017-Central Tax (Rate), Dated: 28th June 2017 and the applicable rate of tax is 5% (2.5% under Central tax and 2.5% State tax).

***Sri Venkata Vijaya Durga Traders [10-12-2019] (AAR-AP);  
Kalagarla Suryanarayana Son [10-12-2019] (AAR-AP)***

---

**[07] AAR-AP - Governmental Authority - Sri Satya Sai Water Supply Project Board does not qualify for Governmental Authority.**

**Ruling : Question 1 :** Whether the applicant qualifies as a 'Governmental Authority' under the Act and whether the services availed by it are exempt from the GST by virtue of Entry 3 in Notification 12/2017 (Rate) dated 28-6-2017.

**Answer 1:** The applicant does not qualify for Governmental Authority under the Act and hence services procured by it are not exempt but taxable as explained above.

**Question 2 :** Whether the Applicant is not liable to remit any GST to its suppliers for any services it procures by virtue of its activities of supplying water for domestic purposes.

**Answer 2:** The services procured by the applicant fall under Sl.No. 25, Heading 9987 "Maintenance repair and installation (except construction) Services" attracting tax rate of 18% (CGST 9% + SGST 9%) under Notification 11/2017-Central Tax (Rate) dt: 28-6-2017.

*Sri Satya Sai Water Supply Project Board [17-1-2020] (AAR-AP)*

---

**[08] AAR-AP - Medicines supplied to In-patients through pharmacy - Not liable to tax, being a part of the composite supply of health care services.**

**Ruling: Question:** Tax liability on the medicines supplied to In-patients through pharmacy.

**Answer:** The supply of medicines supplied to In-patients through pharmacy are not liable to tax, being a part of the composite supply of health care services under Sl.No. 74 Heading 9993 vide **Notification No. 12/2017-Central Tax (Rate) Date: 28-6-2017** which are nil rated.

**Question:** Tax liability on the medicines, drugs, stents, implants etc administered to in-patients during the medical treatment or procedure.

**Answer:** Not liable to tax as explained above.

*CMC Vellore Association [17-2-2020] (AAR-AP)*

---

**[09] AAR-AP - Government Entity - Construction services - APIIC is a “Government Entity” for the purpose of GST matters - Classifiable under SAC Heading No. 9954 under construction services and the applicable rate of tax is 18%.**

**Ruling: Question:** Whether the above work of APIIC executed by the applicant after 22-8-2017 falls under the 18% rate of tax or 12% rate of tax?

**Answer:** The activities of the transaction referred by the applicant are classifiable under SAC Heading No. 9954 under construction services, which fall under entry No. (ii) of serial No.3 of Notification No. 11/2017 Central Tax (Rate) dated 28-6-2017 and the applicable rate of tax is 18% (9% Central Tax + 9% State Tax).

**Question:** If the work falls under 18% Rate of tax, then can the advance ruling authority guide the APIIC authority to reimburse the GST amount to the construction agency?

**Answer:** It is not under the purview of Section 97(2) of CGST Act, 2017.

**Question:** If the work falls under 12% Rate of tax, then can we claim the refund of the GST amount which was paid excess while filing the GST returns from the CGST and SGST authority? (While filing the GST returns Tax paid



@18%)

**Answer:** It is not under the purview of Section 97(2) of CGST Act, 2017.

**DEC Infrastructure and Projects (I) Pvt. Ltd. [17-2-2020] (AAR-AP)**

---

**[10] AAR-AP - Marketing and consultancy services - Intermediary services are provided to the recipient located outside India and the Interstate provisions as contained under Section 7 (5) (c) shall be applicable and hence IGST is payable under such transaction.**

**Ruling: Question 1:** Whether the services supplied by the applicant are liable under export or service or not.

**Answer 1:** The services in question are not 'Export of Service' but 'Intermediary Services' for the reasons explained above and attract IGST.

**DKV Enterprises Pvt. Ltd. [24-2-2020] (AAR-AP)**

---

**[11] AAR-AP - Tug Jupiter - Tug is not a machinery, equipment or tools independently but considered to be a vessel - Classifiable under Sl.No. 10 of Heading 9966 attracting tax rate of 5%.**

**Ruling: Question:** The rate of IGST on vessel charter hire charges of Tug Jupiter let out on rent to RIL by the applicant?

**Answer:** Classifiable under Sl.No. 10 of Heading 9966, vide Notification No. 1/2018-IT (Rate) dated 25-1-2018 read with Notification No. 8/2017-IT (Rate) dated 28-6-2017 as amended from time to time attracting tax rate of 5%, subject to fulfilling of the conditions attached to it.

**Ocean Sparkle Ltd. [24-2-2020] (AAR-AP)**

---

**[12] AAR-AP - Availability of credit in special circumstances - Section 18 of CGST Act, 2017 - In case of sale or transfer, the transferor can transfer unutilised input tax credit to the transferee, which is lying in his electronic credit ledger, by filing Form GST ITC-02.**

**Ruling: Question:** Whether the transaction would amount to supply of goods or supply of services or supply of goods & services?

**Answer:** Supply of services.

**Question:** Whether the transaction would cover Sl.No.2 of the Notification No.12/2017- Central Tax (Rate) dated 28-6-2017 ?

**Answer:** Affirmative.

**Question:** Can we file GST ITC-02 return and transfer unutilised ITC from Vizianagaram, Andhra Pradesh unit to Bengaluru, Karnataka Unit?

**Answer:** Affirmative.

***Shilpa Medicare Ltd. [24-2-2020] (AAR-AP)***

---

**[13] AAR-AP - Drill bits - Import of drill bits for supply to ONGC at its location in India on consumption basis.**

**Ruling: Question a:** Whether the import of drill bits for supply to ONGC at its location in India on consumption basis involves two supplies namely,

- Import into India of drill bits; and
- Indigenous movement from the port of import to ONGC's location.

**Answer a:** Affirmative

**Question b:** If two supplies are involved in the abovementioned transaction then whether two Essentiality Certificates ('EC') are required to be issued i.e.

- (i) one for import of drill bits into India under serial No. 404 of Notification No. 50/2017-Customs, dated 30th June 2017; and
- (ii) another for indigenous movement under Notification No. 3/2017-Central Tax (Rate) dated 28-6-2017 respectively.

**Answer b(i):** In terms of serial No. 404 of Notification No. 50/2017-Customs, dated 30th June 2017 ('Customs Notification'), a concessional rate of Customs duty (BCD - NIL and IGST - 5%) is prescribed for specified goods mentioned in List 33, required in connection with petroleum operations undertaken under petroleum exploration license or mining leases granted by the Government to ONGC and the benefit of concessional rate of Customs duty (i.e. BCD - NIL, IGST - 5%) is available subject to fulfilment of conditions listed in Sl. No. 48 of the Customs Notification including the producing to the jurisdictional Deputy commissioner of Customs or Assistant commissioner of Customs, a certificate from a duly authorized officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India to the effect as specified therein the Notification".

**Answer b (ii):** The entitlement or eligibility or applicability of exemption from central tax under Notification No. 3/2017-Central Tax (Rate) dated 28-6-2017 to the supply of goods (drill bits) to the delivery stations of ONGC is only upon fulfilment of conditions specified in the said Notification - including the one of:

“producing to the Deputy Commissioner of Central Tax or the Assistant Commissioner of Central Tax or the Deputy Commissioner of State Tax or the Assistant Commissioner of State Tax, as the case may be, (having jurisdiction over the supplier of goods, at the time of outward supply of goods), a certificate from a duly authorized officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India to the effect as specified therein the Notification”.

**Question c:** If answer to (a) above is no then whether the supply of drill bits to ONGC in India will be covered by serial No. 404 of Notification No. 50/2017-Customs, dated 30th June 2017 (i.e. under single EC) and no two separate ECs are required.

**Answer c:** Not applicable as it's already replied in Answer b.

***Halliburton Offshore Services Inc. (Drill Bits) [25-2-2020] (AAR-AP)***

**[14] AAR-AP - Education services - Services of supply of service of education as per the curriculum prescribed by the statutory authorities/ government to the students - Only a facilitation / improvisation of the preparation for the exams - Not eligible for the exemption.**

**Ruling: Question (a):** Whether the services of supply of service of education as per the curriculum prescribed by the statutory authorities/ government to the students of the applicant for obtaining qualifications/ certificates of CA-Foundation, CA-Inter, CA-Final, CMA (ICWA)-Foundation, CMA-Inter, CMA-Final and Intermediate duly recognized by the respective statutory authorities/ government are exempted under Notification No. 12/2017-CT (Rate) dt. 28-6-2017 (entry No.66(a)), as amended?

**Answer (a):** The applicant is not eligible for the exemption under Entry No. 66(a) of Notification No.12/2017-CT(Rate) dated 28-6-2017, as amended.

**Question (b):** Whether the charges collected for providing accommodation to the students undergoing the above courses are exempted from GST as

provided under Notification No. 12/2017-CT (Rate) dt. 28-6-2017 (entry no.14), as amended read with Circular No. 32/06/2018-GST dt. 12-2-2018 since the amount charged from the students by the hostel run by the applicant is less than Rs.1000/- per day?

**Answer (b):** The applicant is not eligible for the exemption under Entry No.14 of Notification No. 12/2017-CT (Rate) dt. 28-6-2017.

**Question (c):** Whether the charges collected by the applicant for catering service by supplying food to the students undergoing the above courses are exempted from GST as provided under Notification No.12/2017-CT (Rate) dt. 28-6-2017 (entry No. 66(a)), as amended?

**Answer (c):** The applicant is not eligible for the exemption under Entry No. 66(a) of Notification No. 12/2017-CT (Rate) dt. 28-6-2017.

**Master Minds [5-3-2020] (AAR-AP)**

---

**[15] AAR-AP - Rental services - The rate of tax on the rental services where the cost of fuel is included in the consideration charged from the service recipient is 5% / 12% subject to satisfying the conditions.**

**Ruling: Query:** Does the contract services of the applicant are covered under contract carriage as specified vide serial No. 15 of notification 12/2017; What is the rate of tax payable?

**Answer:** As per the information given by the applicant, he is rendering rental services and his tax liability under GST law is as detailed in the para 6.7 above.

**Query:** Does the applicant require to file reconciliation statement in FORM GSTR-9C?

**Answer:** As per section 97(2) this question doesn't fall under the scope of advance ruling as detailed in the para 6.6 above.

**Andhra Pradesh State Road Transport Corporation [5-5-2020] (AAR-AP)**

---



# कर सलाहकार परिषद्, रतलाम के मनोज कांठेड़ पुनः अध्यक्ष

अध्यक्ष



श्री मनोज जैन

कर सलाहकार परिषद् की वार्षिक साधारण सभा बड़बड़ हनुमान मंदिर पर आयोजित की गई। पूर्व अध्यक्ष राकेश भटेवरा ने बताया कि प्रतिवर्ष साधारण सभा सागोद जैन मंदिर पर आयोजित की जाती है लेकिन कोरोना के कारण उपलब्धता नहीं होने के कारण कोरोना प्रोटोकॉल का पालन

सचिव



श्री आचल मूणत

करते हुए बड़बड़ हनुमान मंदिर पर आयोजित इस मीटिंग में परिषद् के सचिव सी.ए. अंचल मूणत ने पूर्व में आयोजित समस्त कार्यक्रमों की जानकारी प्रस्तुत की। मनोज जैन (कांठेड़) द्वारा अध्यक्षीय उद्बोधन दिया एवं कोषाध्यक्ष सी.ए. श्री विजय सोमानी द्वारा वर्ष 2020 के आय-व्यय का लेखा-जोखा प्रस्तुत किया। मीटिंग में श्री एस.डी. पुरोहित स्मृति स्टडी सर्कल अवार्ड सी.ए. श्री नविन पोखरना, सी.ए. श्री संजय मूणत एवं सी.ए. श्री अभिषेक रांका को दिए गए। कर सलाहकार परिषद् के सचिव सी.ए. अंचल मूणत ने बताया की आगामी वर्ष 2021 के लिए नई कार्यकारिणी के चुनाव का प्रस्ताव रखा गया। सी.ए. श्री केदार जी अग्रवाल द्वारा यह प्रस्ताव रखा गया कि कोरोना के कारण वर्तमान कार्यकारिणी को कार्य करने का मौका नहीं मिला अतः वर्तमान कार्यकारिणी को वर्ष 2021 के लिए निरंतर रखा जावे जिसका सी.ए. श्री एस.एल. चपलोत, सी.ए. श्री गोपाल काकानी, श्री इन्दरमलजी जैन, श्री माधवजी काकानी, सी.ए. श्री संदीप मूणत आदि द्वारा समर्थन किया गया। इस प्रकार वर्ष 2021 हेतु निम्न कार्यकारिणी रहेगी।

**मनोज जैन (कांठेड़) – अध्यक्ष, पवन श्रीमाल – उपाध्यक्ष, अंचल मूणत – सचिव, कृष्ण गोपाल अग्रवाल – सहसचिव एवं वी. के. सोमानी – कोषाध्यक्ष।**

अंत में सी.ए. श्री विजयजी सोमानी ने सभी उपस्थित सदस्यों का आभार व्यक्त किया।

## NEVER BEFORE OFFER OF THE YEAR 2021

12 Monthly Parts - January to December

+

[www.dineshgangrade.com](http://www.dineshgangrade.com)

+

Free Updates

Only  
Rs. 2700/-

Register for free [www.dineshgangrade.com](http://www.dineshgangrade.com) and enjoy free access to Back Volumes, Monthly Parts, CGST Notifications, MP GST Notifications, CG GST Notifications, Circulars, Case Laws etc.



वरिष्ठ अधिवक्ता प्रमोद गुप्ता, ग्वालियर, दैनिक भास्कर ऐमिनेन्स अवार्ड माननीया राज्यपाल श्रीमती आनंदीबेन पटेल से प्राप्त करते हुए



टैक्स प्रैक्टिशनर एसोसिएशन, शाजापुर



शाजापुर के राज्य कर अधिकारी श्री कमल सिंह जी गुर्जर को शाजापुर टैक्स प्रैक्टिशनर एसो. के अध्यक्ष श्री कैलाश नारायण भुवंता, परामर्शदाता ओ.पी. गोयल, सचिव नन्द किशोर राठौर, मनीष जैन, अशोक पाटीदार, शंशाक श्रीवास्तव, रितेश गुप्ता आदि ने वेट कर निर्धारण 2017-18 की समयसीमा 30 अप्रैल 2021 तक बढ़ाने हेतु आयुक्त महोदय के नाम ज्ञापन सौंपा।

**RENEWAL SUBSCRIPTION 2021 RS. 2700/-**

TAX LAW DECISIONS -Published and Printed by Smt. Jaishree Gangrade.  
F-312, Sewa Sardar Nagar, Indore-452001, Printed at Jai Shree Offset Printers  
Company, Indore. Guardian : R.P. Tripathi

Mobile : 898993-5075, 93295-84011 E-mail : taxlawdecisions@gmail.com

**Editor - Nileshe Gangrade**