

GST NEWSLETTER



GST Council Secretariat, New Delhi

Issue-45, December, 2022



Goods and Services Tax Council





MESSAGE

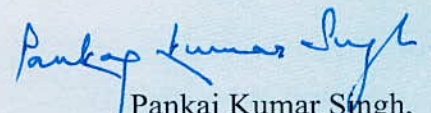
The 48th GST Council Meeting was held on 17th December, 2022 in virtual mode under the Chairmanship of Hon'ble Union Finance Minister.

In a move to reduce the compliance burden of taxpayers, the Council decided to take measures for decriminalisation of the existing provisions of law. The minimum threshold of tax amount for launching prosecution under GST has been raised from Rs. One Crore to Rs. Two Crore, except for the offence of issuance of invoices without supply of goods or services or both. Similarly, the Council has reduced the compounding amount from the present range of 50% to 150% of tax amount to the range of 25% to 100% to make compounding provisions more attractive for the taxpayers. Further, offences that are specifically covered and are punishable under Indian Penal Code has been excluded from prosecution under the GST law.

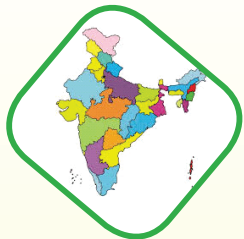
In order to streamline compliances under GST regime, it was decided to conduct a pilot project in State of Gujarat for Biometric-based Aadhaar authentication and risk based physical verification of registration applicants. This will help in tackling the menace of fake and fraudulent registrations. With a view to restrict the misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder, it was decided that PAN-linked mobile number and e-mail address is to be captured and recorded in FORM GST REG-01 and OTP-based verification to be conducted at the time of registration on such PAN-linked mobile number and email address.

The Council has further decided on clarifications that would facilitate both trade and officers by removing ambiguities. The journey so far has been of great significance and it is heartening to see the year ending on a positive note with these steps taken by the Council.

I take this opportunity to extend my warmest wishes for the season and hope, it fills you with joy and good health that lasts a lifetime. Happy New Year!


Pankaj Kumar Singh,
Additional Secretary

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48th GST Council meeting held at New Delhi on 17th December, 2022

Union Finance Minister Smt. Nirmala Sitharaman chaired the 48th Meeting of the GST Council via virtual mode in New Delhi

The 48th GST Council meeting was conducted under the Chairmanship of Hon'ble Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman via virtual mode in New Delhi on 17th December, 2022. The meeting was also attended by Union Minister of State for Finance Shri Pankaj Choudhary besides Finance Ministers of States & UTs (with legislature) and senior officers of the Ministry of Finance & States/ UTs.

The GST Council has inter-alia made the following recommendations with respect to changes in GST tax rates, measures for facilitation of trade and for streamlining compliances in GST. The proposed changes are as below:

Tax Rates:



S. No.	Description	From	To
1.	Husk of pulses including chilka and concentrates including chuni/churi, khanda	5%	Nil
2.	Ethyl alcohol supplied to refineries for blending with motor spirit (petrol)	18%	5%

- It was decided to include supply of Mentha Arvensis under reverse charge with Mentha oil. Supply of Mentha oil was already under reverse charge mechanism
- The following clarifications were recommended to by the Council:
 - Rab (rab-salawat) to be classifiable under CTH 1702 which attracts GST at the rate of 18%.
 - Fryums manufactured using the process of extrusion is specifically covered under CTH 19059030 and would attract GST at the rate of 18%.
 - The higher rate of compensation cess of 22% is applicable to motor vehicle fulfilling all four conditions, namely, it is popularly known as SUV, has engine capacity exceeding 1500 cc, length exceeding 4000 mm and has a ground clearance of 170 mm or above.
 - Goods falling in lower rate category of 5% under Schedule I of Notification No. 1/2017-CTR imported for petroleum operations will attract lower rate of 5% and the rate of 12% shall be applicable only if the general rate is more than 12%.
- As a relief measure, the Council decided to regularise the intervening period starting from the date of issuance of Circular (3.08.2022) in respect of GST on 'husk of pulses including chilka and concentrates including chuni/churi, khanda' on "as is basis" on account of genuine doubts.
- No GST is payable where the residential dwelling is rented to a registered person if it is rented in his/her personal capacity for use as his/her own residence and on his/her own account and not on account of his/her business.
- Incentive paid to banks by Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

Measures for facilitation of trade

1. Decriminalization under GST: The Council has recommended to -

- Raise the minimum threshold of tax amount for launching prosecution under GST from Rs. One Crore to Rs. Two Crore, except for the offence of issuance of invoices without supply of goods or services or both;
- Reduce the compounding amount from the present range of 50% to 150% of tax amount to the range of 25% to 100%;
- Decriminalize certain offences specified under clause (g), (j) and (k) of sub-section (1) of Section 132 of CGST Act, 2017, viz.-
 - obstruction or preventing any officer in discharge of his duties;
 - deliberate tampering of material evidence;
 - failure to supply the information.

2. Refund to unregistered persons: There is no procedure for claim of refund of tax borne by the unregistered buyers in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy, is cancelled and the time period of issuance of credit note by the concerned supplier is over. The Council recommended amendment in CGST Rules, 2017, along with issuance of a Circular, to prescribe the procedure for filing application of refund by the unregistered buyers in such cases.

3. Facilitate e-commerce for micro enterprises: GST Council in its 47th meeting had granted in-principle approval for allowing unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs), subject to certain conditions. The Council approved the amendments in the GST Act and GST Rules, along with issuance of relevant notifications, to enable the same. Further, considering the time required for development of the requisite functionality on the portal as well as for providing sufficient time for preparedness by the ECOs, Council has recommended that the scheme may be implemented w.e.f. 01.10.2023.

4. Paras 7, 8(a) and 8(b) were inserted in Schedule III of CGST Act, 2017 with effect from 01.02.2019 to keep certain transactions/ activities, such as supplies of goods from a place outside the taxable territory to another place outside the taxable territory, high sea sales and supply of warehoused goods before their home clearance, outside the purview of GST. In order to remove the doubts and ambiguities regarding taxability of such transactions/ activities during the period 01.07.2017 to 31.01.2019, the Council has recommended to make the said Paras effective from 01.07.2017. However, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period 01.07.2017 to 31.01.2019.

5. The Council has recommended to amend sub-rule (1) of Rule 37 of CGST Rules, 2017 retrospectively with effect from 01.10.2022 to provide for reversal of input tax credit, in terms of second proviso to Section 16 of CGST Act, 2017 only proportionate to the amount not paid to the supplier vis a vis the value of the supply, including tax payable.

6. The Council recommended to insert Rule 37A in CGST Rules, 2017 to prescribe the mechanism for reversal of input tax credit by a registered person in the event of non-payment of tax by the supplier by a specified date and mechanism for re-availment of such credit, if the supplier pays tax subsequently. **This would ease the process for complying with the condition for availment of input tax credit under Section 16(2) (c) of CGST Act, 2017.**

7. Sub-rule (3 of Rule 108 and Rule 109 of the CGST Rules, 2017 to be amended to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority. This would facilitate timely processing of appeals and ease the compliance burden for the appellants.

8. Rule 109C and FORM GST APL-01/03 W to be inserted in the CGST Rules, 2017 to provide the facility for withdrawal of an application of appeal up to certain specified stage. This would help in reducing litigations at the level of appellate authorities.

9. Circular to be issued to clarify that No Claim Bonus offered by the insurance companies to the insured is an admissible deduction for valuation of insurance services.

10. Circular to be issued for clarifying the issue of treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016. Rule 161 of CGST Rules, 2017 and FORM GST DRC-25 also to be amended for facilitating the same.

11. Sub-rule (3) of Rule 12 of CGST Rules, 2017 to be amended to provide for facility to the registered persons, who are required to collect tax at source under Section 52 or deduct tax at source under Section 51 of CGST Act, 2017 for cancellation of their registration on their own request.
12. Circular to be issued for clarifying the issues pertaining to the place of supply of services of transportation of goods in terms of the proviso to sub-section (8) of Section 12 of the IGST Act, 2017 and availability of input tax credit to the recipient of such supply. It has also been recommended that proviso to sub-section (8) of Section 12 of the IGST Act, 2017 may be omitted.
13. Issuance of the following Circulars in order to remove ambiguity and legal disputes on various issues, thus benefiting taxpayers at large:
 - a. Clarification of the procedure for verification of input tax credit in cases involving difference in input tax credit availed in **FORM GSTR-3B** vis a vis that available as per **FORM GSTR-2A** during FY 2017-18 and 2018-19.
 - b. Clarifying the manner of re-determination of demand in terms of sub-section (2) of Section 75 of CGST Act, 2017.
 - c. Clarification in respect of applicability of e-invoicing with respect to an entity.

Measures for streamlining compliances in GST

14. Proposal to conduct a pilot in State of Gujarat for Biometric-based Aadhaar authentication and risk-based physical verification of registration applicants. Amendments in Rule 8 and Rule 9 of CGST Rules, 2017 to be made to facilitate the same. This will help in tackling the menace of fake and fraudulent registrations.
15. PAN-linked mobile number and e-mail address (fetched from CBDT database) to be captured and recorded in FORM GST REG-01 and OTP-based verification to be conducted at the time of registration on such PAN-linked mobile number and email address to restrict misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder.
16. Sections 37, 39, 44 and 52 of CGST Act, 2017 to be amended to restrict filing of returns/ statements to a maximum period of three years from the due date of filing of the relevant return / statement.
17. FORM GSTR-1 to be amended to provide for reporting of details of supplies made through ECOs, covered under Section 52 and Section 9(5) of CGST Act, 2017, by the supplier and reporting by the ECO in respect of supplies made under Section 9(5) of CGST Act, 2017.
18. Rule 88C and FORM GST DRC-01B to be inserted in the CGST Rules, 2017 for intimation to the taxpayer, by the common portal, about the difference between liability reported by the taxpayer in FORM GSTR-1 and in FORM GSTR-3B for a tax period, where such difference exceeds a specified amount and/ or percentage, for enabling the taxpayer to either pay the differential liability or explain the difference. Further, clause (d) to be inserted in sub-rule (6) of Rule 59 of CGST Rules, 2017 to restrict furnishing of FORM GSTR-1 for a subsequent tax period if the taxpayer has neither deposited the amount specified in the intimation nor has furnished a reply explaining the reasons for the amount remaining unpaid. This would facilitate taxpayers to pay/ explain the reason for the difference in such liabilities reported by them, without intervention of the tax officers.
19. Amendment in definition of “non-taxable online recipient” under Section 2(16) of IGST Act, 2017 and definition of “Online Information and Database Access or Retrieval Services (OIDAR)” under Section 2(17) of IGST Act, 2017 so as to reduce interpretation issues and litigation on taxation of OIDAR Services.

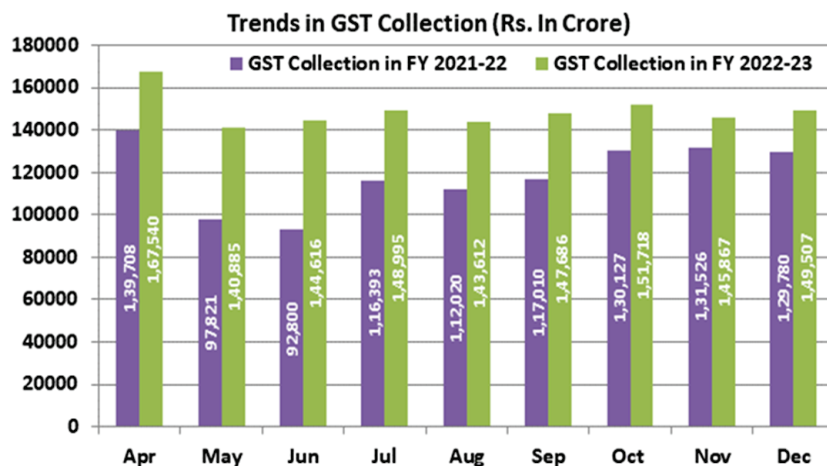
Source: PIB Press release dated 17.12.2022

GST Revenue Collection

₹ 1,49,507 crore GST Revenue collected for December 2022, records increase of 15% Year-on-Year

The gross GST revenue collected during December, 2022 is ₹ 1,49,507 crore, of which CGST is ₹ 26,711 crore, SGST is ₹ 33,357 crore, IGST is ₹ 78,434 crore (including ₹ 40,263 crore collected on import of goods) and Cess is ₹ 11,005 crore (including ₹ 850 crore collected on import of goods). The Government has settled ₹ 36,669 crore to CGST and ₹ 31,094 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of December, 2022 is ₹ 63,380 crore for CGST and ₹ 64,451 crore for the SGST. The revenues for the month of December, 2022 are 15% higher than the GST revenues in the same month last year. During the month, revenues from import of goods was 8% higher and the revenues from domestic transaction (including import of services) are 18% higher than the revenues from these sources during the same month last year. During the month of November, 2022, 7.9 crore e-way bills were generated, which was significantly higher than 7.6 crore e-way bills generated in October, 2022.

The chart below shows trends in monthly gross GST revenues during the current year.



Source: PIB Press release dated 01.12.2022

Notifications

- **Notification No. 25/2022-Central Tax dated 13.12.2022 extended the due date for furnishing FORM GSTR-1 for the tax period November, 2022 for the registered persons whose principal place of business is in certain districts of Tamil Nadu.**

The Government vide the said Notification has extended the due date for furnishing the details of outward supplies in Form GSTR-1 for the tax period November, 2022 for the registered

persons in the State of Tamil Nadu whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Tiruvannamalai, Ranipet, Vellore, Villupuram, Cuddalore, Thiruvallur, Nagapattinam, Mayiladuthurai and Thanjavur. Thus, the due date for furnishing of details of outward supplies in Form GSTR-1 for November, 2022 for all the above-mentioned districts of the State of Tamil Nadu has been extended upto 13th of December, 2022.

An advisory in this regard has been issued by GSTN Team and can be accessed through GST Portal.

► **Notification No. 26/2022 – Central Tax dated 26.12.2022 for giving effect to CGST (Fifth Amendment) Rules, 2022**

The Central Board of Indirect Taxes and Customs (CBIC) has notified the Central Goods and Services Tax (Fifth Amendment) Rules, 2022, on the recommendations of the 48th GST Council Meeting. They shall be effective from 26th December, 2022.

1. PAN to be verified through separate one-time passwords

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes and shall also be verified through separate one-time passwords sent to the mobile number and email address linked to the Permanent Account Number.

2. Verification Process for completing GST Registration Application Via Biometric-Based Aadhaar Authentication and Photograph

Every application made by a person under sub-rule (4) of Rule 8 of the CGST Rules, 2017 who has opted for authentication of their Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking of photographs of the applicant along with verification of original copy of documents at one of the facilitation Centers notified by the Commissioner.

3. Reversal of Input Tax Credit in the case of non-payment of tax by the supplier and re-availment thereof.

The Board has notified Rule 37A, which prescribes reversal of Input Tax Credit in the case of non-payment of tax by the supplier and re-availment thereof. Rule 37A in the CGST Rules, 2017 prescribes the mechanism for reversal of Input Tax Credit by a registered person in the event of non-payment of tax by the supplier by a specified date and the mechanism for re-availment of such credit, if the supplier pays tax subsequently. This would make it easier to meet the condition for claiming an Input Tax Credit under Section 16(2) (c) of the CGST Act, 2017.

4. Manner of dealing with difference in liability reported in the statement of outward supplies and that reported in the Return

The Board has notified Rule 88C which prescribes the manner of dealing with differences in liability reported in a statement of outward supplies and that reported in Return. In the event that GSTR-1 and GSTR-3B filings are inconsistent, such intimation shall be sent electronically on the common portal as well as to the taxpayer's registered e-mail address. Taxpayers will be responsible for ensuring compliances as prescribed under the Rule.

5. Timely processing of appeals and easing the compliance burden

Sub-rule (3) of Rule 108 and Rule 109 of the CGST Rules, 2017 were amended to provide clarity on the requirement of the submission of a certified copy of the order appealed against and the issuance of a final acknowledgement by the appellate authority. This would facilitate the timely processing of appeals and ease the compliance burden for the appellants.

► Notification No. 27/2022 – Central Tax dated 26.12.2022 regarding Notification under Sub-rule (4B) of Rule 8 of CGST Rules, 2017

The Central Government vide the said Notification has specified that the provisions of sub-rule (4A) of Rule 8 of the CGST Rules, 2017 shall not apply in all the States and Union territories except the State of Gujarat.

Vide the said Circular it has been clarified that in such cases, where any discrepancy or difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year exceeds ₹ 5 lakh, the proper officer shall ask the registered person to produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B. These certificate issued by CA or CMA shall contain UDIN and the UDIN may be verified through ICAI and ICMAI website.

In cases, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year is upto Rs 5 lakh, the proper officer shall ask the claimant to produce a certificate from the concerned supplier, to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.

The instructions mentioned in the said circular will apply only to the ongoing proceedings in scrutiny/audit/ investigation, etc. for FY 2017-18 and 2018-19 and not to the completed proceedings. Also, these instructions will apply in those cases for FY 2017-18 and 2018-19 where any adjudication or appeal proceedings are still pending.

Circulars

► Circular No. 183/15/2022-GST dated 27.12.2022 regarding the clarifications to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR – 3B as compared to that detailed in FORM GSTR – 2A for FY 2017-18 and 2018-19

During the initial period of implementation of GST, especially during the financial years 2017-18 and 2018-19, many suppliers failed to furnish the correct details of outward supplies in their FORM GSTR-1 and because of such discrepancies, FORM GSTR-2A of their recipients remained incomplete. However, the concerned recipients may have availed input tax credit on the said supplies in their returns in FORM GSTR-3B, as restrictions in availment of ITC up to certain specified limit beyond the ITC available to the registered persons as per FORM GSTR-2A were provided under Rule 36(4) of CGST Rules, 2017 only with effect from 9th October, 2019.

► Circular No. 184/16/2022-GST dated 27.12.2022 regarding the clarification on the entitlement of ITC where the Place of Supply is determined in terms of the proviso to sub-section (8) of Section 12 of IGST Act, 2017

Vide the said Circular the Government has issued clarification regarding the availability of Input Tax Credit of the services, supplied by way of transportation of goods, including by mail or courier, to the recipient located in India. It is clarified that in case of supply of said services to a place outside India, the place of supply of the said service shall be the place of destination of such goods. In such cases, as the place of supply of services, as per the proviso to Section 12(8) of IGST Act is the concerned foreign destination and not the State where the recipient is registered under GST, the recipient of the said services shall be eligible to avail Input Tax Credit in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in Section 16 and 17 of the CGST Act, 2017.

4. Circular No. 185/17/2022-GST dated 27.12.2022 regarding clarification with regard to applicability of provisions of Section 75(2) of the CGST Act, 2017 and its effect on limitation

Vide the said Circular the Government has issued clarification regarding the time limit within which the proper officer is required to re-determine the amount of tax payable considering the notice to have been issued under sub-section (1) of Section 73, specially in cases where time limit for issuance of order as per sub-section (10) of Section 73 has already been over. Further, clarification, is also provided regarding the methodology for re-computation of such amount payable by the noticee.

► **Circular No. 186/18/2022-GST dated 27.12.2022 regarding clarification on various issue pertaining to GST** Vide the said Circular the Government has issued clarification regarding taxability of 'No Claim Bonus' offered by Insurance companies and applicability of e-invoicing w.r.t an entity.

It is clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company. It further clarified that No Claim Bonus (NCB) is a permissible deduction under clause (a) of sub-section (3) of Section 15 of the CGST Act, 2017 for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured. Accordingly, where the deduction on account of No claim bonus is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of No Claim Bonus mentioned on the invoice.

It has also been clarified that the exemption provided under Notification No. 13/2020-Central Tax dated 21.03.2020 from mandatory generation of e-invoices as per sub-rule (4) of Rule 48 of Central Goods and Services Tax Rules, 2017 is provided for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

► **Circular No. 187/19/2022-GST dated 27.12.2022 on Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalized under Insolvency and Bankruptcy Code (IBC), 2016**

Vide the said Circular the Government has issued clarification regarding the modalities for implementation of the order of the adjudicating authority under IBC, 2016 with respect to demand for recovery against such corporate debtor under the CGST Act, 2017 as well under the existing laws and the treatment of such statutory dues under the CGST Act, 2017 and existing laws, after finalization of the proceedings under IBC. It is clarified that where a confirmed demand for recovery has been issued by the tax authorities for which a summary has been issued in FORM GST DRC-07/DRC 07A against the corporate debtor, and where the proceedings have been finalized against the corporate debtor under IBC reducing the amount of statutory dues payable by the corporate debtor to the government under the CGST Act, 2017 or under existing laws, the jurisdictional Commissioner shall issue - an intimation in FORM GST DRC 25 reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings are pending.

► **Circular No. 188/20/2022-GST dated 27.12.2022 prescribes the manner of filing for Refund by Unregistered Persons**

Vide the said Circular the Government has prescribed the manner for filing the refund application by unregistered persons, clarifying therein the relevant date for filing of the refund and the minimum refund amount which shall be paid to an applicant. The said clarification is in respect of refund application filed by unregistered persons in cases where the contract/agreement for supply of services of construction of flat/building has been cancelled due to non-completion or delay in construction activity in time or any other reasons or where long-term insurance policy has been terminated prematurely.

GST Outreach Programmes

A bilingual WhatsApp chatbot-cum-helpline number 9160500033 launched by Government of Punjab

A bilingual WhatsApp Chatbot-cum-helpline number 9160500033 was launched on 22nd December, 2022 by the Hon'ble Minister of Finance, Excise and Taxation, Punjab Shri. Harpal Singh Cheema launched in order to address the queries and issues of the taxpayers regarding Goods and Services Tax (GST).



In Picture above: Finance, Excise & Taxation Minister of Punjab Shri. Harpal Singh Cheema with officers of State GST Department during the launch of WhatsApp chatbot-cum-helpline number

During the launch, Shri. Harpal Singh Cheema informed that information regarding various aspects of GST could be now availed through WhatsApp in Punjabi or English. Further, technical issues or complaints related to the GST portal can also be availed through this service. He further informed that this initiative has been launched in line with the policy of easing the delivery of services to the taxpayers besides strengthening the feedback mechanism.

Meanwhile, the Finance Minister also reviewed the district-wise performance of the Taxation department. Appreciating the performance of the leading districts, Shri. Harpal Singh Cheema advised the district-level officers to adopt a courteous approach towards taxpayers and come out with innovative measures for facilitation of taxpayers.

► Refresher Course' for GST officers of Puducherry and Tamil Nadu at Puducherry by NACIN, Chennai

National Academy of Customs, Indirect Taxes & Narcotics (NACIN), Chennai conducted a comprehensive two weeks 'Refresher Course' for GST officers of Puducherry and Tamil Nadu at Puducherry. The course was inaugurated by Shri N. Rangaswamy, the Hon'ble Chief Minister of the Puducherry.



In Picture above : Shri N.Rangaswamy, the Hon'ble Chief Minister of the Puducherry



Picture above (Centre) Shri N.Rangaswamy, the Hon'ble Chief Minister of the Puducherry

(Right from the Centre) Shri Rajeev Verma, Chief Secretary, Govt. of Puducherry and Shri. K. R. Uday Bhaskar, Pr. ADG NACIN, Chennai.

(Left from the Centre) Smt. N. Padmasri, Commissioner CGST, Puducherry

The course was designed with an intent to enhance the capacity and to equip the officers for their future roles and responsibilities by acquainting them with important allied laws and practices.

During this training, overall, 44 sessions were conducted, which included core topics under GST like Levy and collection, registration, Supply of Goods and Services, Time and Value of Supply, Valuation of Non-Monetary Considerations, Input Tax Credit, Transitional Credits, Payments of Tax, Returns, Assessment, Investigation, Adjudication, Arrest, Prosecution, Appeal, Recovery of

Arrears, Refund etc. In addition, analytical discussions of specific sectors such as Job work, works contract, health, Insurance, transport were also covered. The training also focused on training the officers on reading the Financial Statements along with analysis of GST Annual Returns for Audit, risk-based selection of Units for Audit, Dos and Don'ts for conducting Audit etc.



In Picture above: Shri Rajeev Verma, Chief Secretary, Govt. of Puducherry, Shri. K. R. Uday Bhaskar, Pr. ADG NACIN, Chennai and Smt. N. Padmasri, Commissioner CGST, Puducherry with other GST officers from Puducherry and Tamil Nadu Government.

► GST Workshop organized for stakeholders of Rajouri-Poonch districts of Jammu & Kashmir

On 21.12.2022 the Jammu and Kashmir State Tax Department, in collaboration with the District Administration Rajouri, organized a day-long awareness cum interaction programme with the traders of Rajouri-Poonch districts.

The traders, contractors, tax consultants, accountants and other stakeholders from these districts participated in the event organized as part of the State Tax Department's efforts to reach out to the stakeholders at the grassroots level to get a first-hand assessment of their issues. During the event Dr Rashmi Singh IAS, Commissioner State Taxes appealed to the general public/citizens to perform their duty by paying taxes as the tax collected is used by the Government for carrying out various welfare schemes for nation building.



In pictures above: - Dr Rashmi Singh, Commissioner State Taxes interacting with the traders of Rajouri-Poonch districts.

► Vide Circular No.16/2022 the Tamil Nadu Government issued guidelines under TNGST Act, 2017 regarding conduct of test purchase under sub-section (12) of Section 67 of TNGST Act, 2017

The Tamil Nadu Government vide the said Circular have informed that an amount of ₹ 20 lakhs has been sanctioned towards permanent advance for conducting test purchase as provided under Section 67(12) of the Tamil Nadu Goods Service Tax Act, 2017. Each of the Territorial and Intelligence Joint Commissioners have been sanctioned Rs. One lakh to conduct the Test purchase.

The Purpose of Test Purchase is:

- ✓ To ensure compliance in issuing tax invoice / bill of supply by the registered person.
- ✓ To create awareness among the trading community and increase the practice of issuing invoices for the supplies effected by them.
- ✓ To prevent composition taxable persons from collecting tax from the customers thereby, preventing possible evasion of tax.

➤ GST Doctor' Web Application developed for holistic analysis of GST>Returns

Vide D.O letter dt. 22.12.2022 Shri. Mandalika Srinivas, Chief Commissioner, Chennai CGST Zone has drawn attention towards a web-Application named as “**GST Doctor**” which is a useful tool for efficient and holistic analysis of GST>Returns, Invoice-wise data etc. for the purpose of Audit, scrutiny of GST returns and processing of GST Refunds. The App has been developed by Shri. Milan Tiwari, Inspector of Chennai GST Zone and it is developed in such a way that the users just need to feed in the returns downloaded from AIO viz. GSTR 1, GSTR 3B, GSTR 2A and GSTR 9 and the software throws the reconciled data flagging discrepancies, if any, in a collated manner.

A unique feature of the web-application is the Invoice-wise ITC-Matching, a major tool required by Audit officers to identify ITC-mismatches or ITC availment beyond the statutory time limit. The user experience of the officers of Chennai-Zone has confirmed the efficacy of – ‘GST-Doctor’ as the reconciliation has become much easier with the app. Further, omissions possible due to manual verification could be eliminated by this freely downloadable Web-Application, available on “Microsoft Store”.

GST Portal Updates

➤ Advisory regarding extension of due date for furnishing form GSTR-1 for certain districts of Tamil Nadu

The Government vide Notification No.25/2022- Central Tax dated 13th December, 2022 has extended the due date for furnishing of Form GSTR-1 for November, 2022 for registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Tiruvannamalai, Ranipet, Vellore, Villupuram, Cuddalore, Thiruvallur, Nagapattinam, Mayiladuthurai and Thanjavur in the State of Tamil Nadu.

For the detailed advisory, please **click here**.

Portal update on 14.12.2022

Meeting with Stakeholders

➤ Meeting with representatives of ‘Federation of Chakan Industries’.

A meeting was held with representatives of the Federation of Chakan Industries, an Association of industries operating in and around Chakan industrial belt, Pune, on 27.12.2022 wherein they raised several issues that were being faced by the Industry. During the meeting, the Association requested for clarification with regards to HSN code classification for various parts and components that are used in the motor vehicle on behalf of the Auto, Auto component and Fastener manufacturers. The representatives requested that the department should consider classifying the components made by them in the 18% rate bracket which is in consonance with the Customs regime keeping in view the Instruction No.01/2022- Customs issued by Ministry of Finance. They suggested that since classification under GST regime is taken from the Customs tariff therefore uniformity may be maintained for the same product under the Customs law and under the GST law with respect to

classification. They further submitted that after due deliberations if the Government feels that GST should be 28% on these goods, then the changes should be made effective only prospectively.

➤ Meeting with representatives of ‘All India Papad Products Manufacturer's Association’

A meeting was held with representatives of the All India Papad Products Manufacturer's Association on 12.12.2022 wherein they raised several issues that were being faced by the manufacturers. One such issue that was deliberated by the Association was the need for clarification on classification of various products like Papad, Fryums and similar products and their applicable GST rate. They stated that their members are mainly engaged in the manufacture of un-fried products like Papad, Fryums etc. which are manufactured in various sizes and shapes and that in the erstwhile regime the commodity ‘Papad’ was exempt from payment of duty under Central Excise, State

VAT and Central Sales Tax. Post the introduction of GST, exemption to Papad, has been given vide the Entry at Sr. No. 96 of Notification 2/2017 -Central Tax (Rate) dated June 28, 2017 and the corresponding IGST and SGST notifications. However, the Association stated that the clarification is required as the tax authorities are taking different views on classification of products which may be similar to Papad.

It is pertinent to mention that the said issue was discussed in the 48th GST Council meeting and it was decided that Fryums manufactured using the process of extrusion is specifically covered under CTH 19059030 and would attract GST at the rate of 18%.

Legal Corner

➤ Provisions in Indian Penal Code corresponding to clause (g), (j) and (k) of sub-section (1) of Section 132 of CGST Act,2017

Sl. No.	Offence clause under the CGST Act, 2017	Provisions in Indian Penal Code
1.	obstructs or prevents any officer in the discharge of his duties under this Act. [clause (g) of sub-section (1) of Section 132]	<p>Section 186. Obstructing public servant in discharge of public functions.—Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with a fine which may extend to five hundred rupees, or with both.</p> <p>Non-cognizable& bailable;</p>
2.	tampers with or destroys any material evidence or documents. [clause (j) of subsection(1) of Section 132]	<p>Chapter XI of IPC (OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE)</p> <p>Section 204. Destruction of document to prevent its production as evidence.—Whoever secretes or destroys any [document and electronic record] which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such [document or electronic record] with the intention of preventing the</p>

	<p>same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. (<i>Emphasis supplied</i>)</p> <p>Non-cognizable & bailable offence</p>
3.	<p>fails to supply any information which he is required to supply under this Act or the Rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; [clause (k) of sub-section(1) of Section 132]</p> <p>CHAPTER X of IPC {OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS}</p> <p>Section 176. Omission to give notice or information to public servant by person legally bound to give it.</p> <p>Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; 179 [or, if the notice or information required to be given is re-quired by an order passed under sub-section (1) of section 565 of the Code of Criminal Procedure, 1898 (5 of 1898) with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]</p> <p>Non-cognizable & Bailable offence</p>

➤ Res Ipsa Loquitur

The literal meaning of the maxim 'Res Ipsa Loquitur' is 'The thing speaks for itself'. It is a rule of evidence which in reality belongs to the law of torts. Inference as to negligence may be drawn from proved circumstances by applying the rule if the cause of the accident is unknown and no reasonable explanation as to the cause is coming forth from the defendant.

Generally speaking, the burden to prove negligence lies on the claimant who alleges the negligence. But, barring exceptional cases, it may not be possible for the claimant to know what precisely led to the accident. This hardship to the claimant can be avoided by the application of the maxim 'res ipsa loquitur'. The concept of res ipsa loquitur allows the plaintiff to establish a presumption of negligence on the part of the defendant through the use of circumstantial evidence. The application of the doctrine shifts the burden of proof on the defendant and there is a presumption of negligence on part of the defendant and it is up to him to prove that it was not his actions that caused the plaintiff's injury.

In order to apply the doctrine of res ipsa loquitur, an injured party must show the presence of three elements:

- The event that caused injury to the plaintiff does not occur unless someone has acted negligently.
- The evidence adduced rules out all the possibilities of the fault of the plaintiff or third party.
- There is a duty of care of defendant towards the plaintiff which he breached.

➤ Doctrine of Res Sub Judice

Res sub judice is a term derived from Latin, Sub-judice means 'under judgement' or in other words, a matter 'under consideration'. The object of the principle is to prevent a court of concurrent jurisdiction from simultaneously trying two parallel suits in respect of the same matter in issue and is intended to protect a person from the multiplicity of suits and to avoid a conflict of decisions.

The rule of res sub judice is, therefore, bars a trial on certain conditions but do not prevent the institution of a subsequent suit. The doctrine of Res sub judice is not directly defined in the Civil Procedure Code, 1908 but the principle be found in Section 10 of CPC which deals with 'Stay of suit'. Section 10 states that no court will initiate the trial of any suit if the issues are directly or substantially related to the previously instituted

suit between the same parties or parties litigating on behalf of them under the same title and the matter is pending before the court having the competent jurisdiction in the territory of India or any court beyond the limits of India established by central governments having the same jurisdiction or before the Supreme Court.

The Doctrine does not contemplate an identity of issues between the two suits, nor does it require that the matter in issue in the two suits should be entirely the same or identical. What it requires is that the matter in issue in the two suits should be directly and substantially the same. Where there are different and independent transactions between the parties, a suit qua one transaction cannot be stayed when a suit qua second transaction is filed. The following conditions must be satisfied to apply the principles of res sub judice:

- There must be two suits, one previously instituted and the other subsequently instituted;
- The matter in issue in the subsequent suit must be directly and substantially in issue in the previous suit;
- Both the suits must be between the same parties or their representatives;
- The previously instituted suit must be pending in the same court in which the subsequent suit is brought or in any other court in India or in any court beyond the limits of India established or continued by the Central Government or before the Supreme Court;
- The court in which the previous suit was instituted must have had the jurisdiction to entertain the same; and
- The parties to the dispute must be litigating under the same title in both the suits.

The purpose behind this doctrine is to prevent multiplicity of cases in courts. It is also sought to prevent the plaintiff from getting two separate decisions from different courts in his favor or two contradictory judgements. It also ensures to protect the litigant from unnecessary harassment.

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5th Floor, Tower-II, Jeevan Bharati Building, Connaught Place, New Delhi 110 001 | Ph: 011-23762656

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