
KEY UPDATES

MAY & JUNE, 2018



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SIGNIFICANT NOTIFICATIONS

Sr.No	Notification No.	Key Update
1.	22/2018-Central Tax, dt. 14-05-2018	Waiver of late fee for failure to furnish the return in Form GSTR- 3B for each of the months from October 2017 to April 2018 for the class of registered persons whose declaration in FORM GST TRAN-1 was submitted but not filed on the common portal on or before the 27th day of December, 2017 due to technical error. Further, such waiver was subject to condition that the GST TRAN-1 was to be filed by 10 th May, 2018 and GSTR-3B for these months to be filed by 31 st May, 2018.
2.	23/2018-Central Tax, dt. 18-05-2018	Due date extended to 22nd May, 2018 for filing of FORM GSTR-3B for the month of April, 2018 .
3.	24/2018-Central Tax, dt. 28-05-2018	Notification stating NACIN as the authority for conducting the examination for GST Practitioners under rule 83 (3) of the CGST Rules, 2017.
4.	25/2018-Central Tax, dt. 31-05-2018	Due date extended for filing the form of GSTR-6 (ISD Return) for July, 2017 to June, 2018 till 31st July, 2018
5.	11/2018-Central Tax (Rate), dt. 28-05-2018	Amendment in notification No. 04/2017- Central Tax (Rate) dated 28.06.2017 so as to notify levy of Priority Sector Lending Certificate (PSLC) under Reverse Charge Mechanism (RCM) when supplied and received by a registered person.
6.	12/2018-Integrated Tax (Rate), dt. 28-05-2018	Amendment in notification No. 04/2017- Integrated Tax (Rate) dated 28.06.2017 so as to notify levy of Priority Sector Lending Certificate (PSLC) under Reverse Charge Mechanism (RCM) when supplied and received by registered person.
7.	07/2018-Union Territory Tax, dt. 18-05-2018	Rescindment of notification number G.S.R. 316 (E). Therefore, <u>E-way Bill comes into effect for Chandigarh UT from 25th day of May, 2018</u>
8.	08/2018-Union Territory Tax, dt. 18-05-2018	Rescindment of notification number G.S.R. 317 (E). <u>Therefore, E-way Bill comes into effect for Dadra and Nagar Haveli from 25th day of May, 2018</u>
9.	09/2018-Union Territory Tax, dt. 18-05-2018	Rescindment of notification number G.S.R. 318 (E). <u>Therefore, E-way Bill comes into effect for Daman and Diu from 25th day of May, 2018.</u>
10.	10/2018-Union Territory Tax, dt. 21-05-2018	Rescindment of notification number G.S.R. 315 (E). Therefore, <u>E-way Bill comes into effect for Andaman and Nicobar Island from 25th day of May, 2018.</u>

11.	11/2018-Union Territory Tax, dt. 21-05-2018	Rescindment of notification number G.S.R. 319 (E). Therefore, <u>E-way Bill comes into effect for union territory of Lakshadweep from 25th day of May, 2018</u>
12.	11/2018- Union Territory tax (Rate), dt. 28-05-2018	Amendment in notification No. 04/2017- Union Territory Tax (Rate) dated 28.06.2017 so as to notify levy of Priority Sector Lending Certificate (PSLC) under Reverse Charge Mechanism (RCM) when supplied and received by registered person.
13.	26/2018-Central Tax, dt. 13-06-2018	<p>Following amendments were introduced vide Fifth amendment, 2018 to the CGST Rules, 2017</p> <ol style="list-style-type: none"> <li data-bbox="587 591 1399 815"> <p>1. Amendment to Rule No.37(1) The value of expenses paid by recipient, which were to be incurred by supplier in relation to supply and hence added in the value of supply as per Section 15(2)(b) of CGST Act shall be deemed to have been paid for the purposes of Section 16(2) of CGST Act;</p> <li data-bbox="587 860 1399 994"> <p>2. Amendment to Rule 83(3) The examination for GST Practitioner has to be cleared within 18 months from the appointed date in order to remain enrolled.</p> <li data-bbox="587 1039 1399 1352"> <p>3. Amendment to Rule 89(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula: Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.</p> <li data-bbox="587 1397 1399 1576"> <p>4. Amendment to Rule 95(3)(a) The condition of the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any has been removed for claiming refund of tax under inverted rate of structure.</p> <li data-bbox="587 1621 1399 1800"> <p>5. Amendment to Rule 97(1) Provided further that an amount equivalent to fifty per cent of the amount of cess determined under sub-section (5) of section 54 of CGST Act read with section 11 of the GST (Compensation to States) Act, shall be deposited in the Fund.</p> <li data-bbox="587 1845 1399 1888"> <p>6. Amendment to Rule 133(3)</p>

		<p>The Anti Profiteering Authority can order supplier to reduce prices or pay back to the recipient to the extent it determines that the benefit of reduced tax has not been passed on to the recipient, along with appropriate interest, if any.</p> <p>7. Amendment to Rule 138(14)(o) E-Way Bill is not required to be generated where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.</p>
14.	27/2018-Central Tax, dt. 13-06-2018	After seizure of the goods by proper officer may dispose off such goods as specified in the notification after due consideration.
15.	28/2018-Central Tax, dt. 19-06-2018	<p>Amendment in Rule No. 58 (Records to be maintained), Rule No. 138C (E-Way Bill), Rule No.142 (Demand order for amount payable). Notification issued for amending the CGST Rules, 2017.</p> <p>1. Amendment to Rule 58(1) Transporters having multiple registrations on same PAN in different states can apply for a Unique Common Enrolment Number. However, after obtaining such enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI.”;</p> <p>2. Amendment to Rule 138C(1) The time limit for submission of Summary Report on inspection of goods can be further extended by three days after sufficient causes are shown to the Commissioner, or any other officer appointed by him.</p> <p>3. Amendment to Rule 142(5) Form DRC-07 to be uploaded electronically containing summary of the order passed under section 129 or Section 130 of CGST Act.</p>
16.	12/2018 - Central Tax (Rate), dt. 29-06-2018	Further extension of exemption of RCM payment for supply received from unregistered person under Section 9(4) of CGST Act, 2017 till 30th September, 2018.
17.	13/2018 - Integrated Tax (Rate), dt. 29-06-2018	Further extension of exemption of RCM payment for supply received from unregistered person under Section 5(4) of IGST Act, 2017 till 30th September, 2018.
18.	12/2018 - Union Territory Tax (Rate), dt. 29-06-2018	Further extension of exemption of RCM payment for supply received from unregistered person under Section 7(4) of UTGST Act, 2017 till 30th September, 2018

19.	15E/2018 - State Tax, dt. 29- 06-2018	No e-way bill shall be required to be generated for the intra-State movement in the State of Maharashtra, in respect of the goods: 1. Any goods - not exceeding Rs. 1 Lakh 2. Hank, Yarn, Fabric and Garments for any value if transported for a distance of upto 50 kilometers within the State of Maharashtra for the purpose of job work
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SIGNIFICANT CIRCULARS

Sr.No.	Circular No.	Key Updates
1.	44/18/2018- GST, dt. 02-05-2018	<p>Clarification regarding taxability of tenancy rights under GST where it is clarified that grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. However, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST</p>
2.	45/19/2018- GST, dt. 30-05-2018	<p>a. Claim for refund filed by an Input Service Distributor, a person paying tax under section 10 or a non-resident taxable person.</p> <p>FORM GSTR-4 filed by a composition taxpayer, the details in FORM GSTR-6 filed by an ISD and the return in FORM GSTR-5 filed by a non-resident taxable person shall be sufficient for claiming refund. These taxpayers don't have to file GSTR-1 and GSTR-3B for claiming refund.</p> <p>b. Application for refund of integrated tax paid on export of services and supplies made to a Special Economic Zone developer or a Special Economic Zone unit.</p> <p>It is clarified that for the tax period commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file refund application in FORM GST RFD-01A, on a condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated/cess mentioned in FORM GSTR-3B filed for the corresponding period.</p> <p>c. Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess.</p> <p>Subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies but they cannot take the credit of the compensation cess paid on the input product, for payment of integrated tax in view of the proviso to sec 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies.</p>

		<p>d. Requirement of bond or Letter of Undertaking (LUT) in case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods.</p> <p>In case of zero rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax, LUT/Bond is not required. Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.</p> <p>e. Scope of the restriction imposed by rule 96(10) of the CGST Rules, regarding non-availment of the benefit of various notifications.</p> <p>The above restrictions are only applicable to those exporters who are directly receiving goods from the suppliers supplying goods without payment of tax or at such reduced rate as specified in various notifications.</p>
3.	3/1/2018-IGST, dt. 25-05-2018	Clarification regarding applicability of IGST on goods supplied while being deposited in a customs bonded warehouse where it was clarified that the IGST was payable at the time of final clearance of goods from the Warehouse only.
4.	46/20/2018-GST, dated 06-6-2018	Clarification regarding applicability GST rate of 12% under heading 4907 on Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs) and other similar scrips. However, on Duty Credit scrips GST shall be at Nil rate.
5.	47/21/2018-GST, dated 08-06-2018	<p>Clarifications on the following of certain issues under GST:</p> <p>a. Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?</p> <p>Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or</p>

		<p>furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM. It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).</p> <p>b. How is servicing of cars involving both supply of goods (spare parts) and services (labor), where the value of goods and services are shown separately, to be treated under GST?</p> <p>Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.</p> <p>c. In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail input tax credit?</p> <p>The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).</p> <p>It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail input tax credit subject to the fulfilment of other provisions of the CGST Act read with the rules made thereunder.</p>
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		<p>d. In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?</p> <p>As per proviso to rule 138(2A) of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short), the railways shall not deliver the goods unless the e-way bill is produced at the time of delivery.</p> <p>e. Whether e-way bill is required in the following cases-</p> <p>i) Where goods transit through another State while moving from one area in a State to another area in the same State</p> <p>It may be noted that e-way bill generation is not dependent on whether a supply is inter-state or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated.</p> <p>ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.</p> <p>Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an E-way bill, if the same has been exempted under rule 138(14)(d) of the CGST Rules.</p>
6.	<p>48/22/2018-GST, dated 14-06-2018</p>	<p>Clarification on the following miscellaneous issues related to SEZ and refund of unutilized ITC for job workers:</p> <p>a. Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an inter-State supply or an intra-State supply?</p> <p>It is clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.</p> <p>b. Whether the benefit of zero rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event management services, hotel and accommodation services, consumables etc.?</p>

		<p>Subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorized operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.</p> <p>c. Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017, even if the goods (fabrics) supplied are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017?</p> <p>It is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.</p>
7.	<p>49/23/2018-GST, dated 21-06-2018</p>	<p>Clarifications regarding modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular No. 41/15/2018-GST dated 13.04.2018</p> <p>In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, hereby issues the following modifications to the said Circular:</p> <p>(i) In para 2 (e) of the said Circular, the expression “three working days” may be replaced by the expression “three days”;</p> <p>(ii) The statement after paragraph 3 in FORM GST MOV-05 should read as: “In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at ___ AM/PM.”</p>

LINKS TO CORRESPONDING NOTIFICATIONS

Sr. No.	Notification No.	Link
1.	22/2018-Central Tax, dt. 14-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-22-2018-central tax-English.pdf
2.	23/2018-Central Tax, dt. 18-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-23-2018-central tax-English.pdf
3.	24/2018-Central Tax, dt. 28-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-24-2018-central tax-English.pdf;jsessionid=B8B823EF0FC250B5947D14ED
4.	25/2018-Central Tax, dt. 31-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-25-2018-central tax-English.pdf
5.	11/2018-Central Tax (Rate), dt. 28-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-11-2018-cgst-rate-english.pdf
6.	12/2018-Integrated Tax (Rate), dt. 28-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-12-2018-igst-rate-english.pdf
7.	07/2018-Union Territory Tax, dt. 18-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-7-2018-Union-Territory-Tax-English.pdf
8.	08/2018-Union Territory Tax, dt. 18-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-8-2018-Union-Territory-Tax-English.pdf
9.	09/2018-Union Territory Tax, dt. 18-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-9-2018-Union-Territory-Tax-English.pdf
10.	10/2018-Union Territory Tax, dt. 21-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-10-2018-Union-Territory-Tax-English.pdf
11.	11/2018-Union Territory Tax, dt. 21-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-11-2018-Union-Territory-Tax-English.pdf

12.	11/2018- Union Territory tax (Rate), dt. 28-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-11-2018-utgst-rate-english.pdf
13.	26/2018-Central Tax, dt. 13-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-26-2018-central tax-English.pdf
14.	27/2018-Central Tax, dt. 13-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-27-2018-central tax-English.pdf
15.	28/2018-Central Tax, dt. 19-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-26-2018-central tax-English.pdf
16.	12/2018 - Central Tax (Rate), dt. 29-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-12-2018-cgst-rate-english.pdf
17.	13/2018 - Integrated Tax (Rate), dt. 29-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-13-2018-igst-rate-english.pdf
18.	12/2018 - Union Territory Tax (Rate), dt. 29-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-12-2018-utgst-rate-english.pdf
19.	15E/2018 - State Tax, dt. 29-06-2018	https://egazette.mahaonline.gov.in/Forms/GazetteSearch.aspx

LINKS TO CORRESPONDING CIRCULARS

Sr. No.	Circular No.	Link
1.	44/18/2018-GST, dt. 02-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular No.44.pdf
2.	45/19/2018-GST, dt. 30-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular No.45.pdf
3.	3/1/2018- IGST, dt. 25-05-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/igst-circu-3.pdf
4.	46/20/2018-GST, dated 06-6-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular No.46.pdf
5.	47/21/2018-GST, dated 08-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular No.47.pdf
6.	48/22/2018-GST, dated 14-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-48-22-2018-GST-updated.pdf
7.	49/23/2018-GST, dated 21-06-2018	http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular No.49.pdf

CASE LAWS

1. Part-B of E-way bill is not mandatory for transport of goods within 50 kms.

Assessee (Plaintiff)	VSL Alloys (India) (P.) Ltd
Department (Respondent)	State of U.P.
Journal of Publication	93 taxmann.com 119
Date of Publication	13th April, 2018
Ruling authority	High Court of Allahabad

FACTS

- The petitioner's office is situated at Industrial Area Sahibabad, District Ghaziabad.
- The goods were being sold to the consignee situated at Rajkot and IGST @ 18% was charged.
- The goods were booked through M/s Jai Hind Tempo Transport Service, Sahibabad, Ghaziabad.
- The petitioner downloaded e-way bill and submitted all the relevant details. However, the validity of the e-way bill showed that it is not valid for movement as Part B is not entered.
- During the course of transportation from Sahibabad i.e. from the factory of the petitioner upto the transporter, the vehicle was intercepted at Mohan Nagar, Ghaziabad by the Assistant Commissioner (in-charge) and issued interception memo.
- The respondent directed for physical verification of the goods and accordingly detained the vehicle as well as goods by passing an order under Section 129(1) of the Act. Consequently, a notice under Section 129(3) of the Act was issued directing the petitioner to pay towards the tax liability and penalty.

ISSUE

Whether mere non-mentioning of the vehicle no. in Part-B can be a ground for Seizure of the goods?

HELD

- ✓ It was held that, as per the Notification No.12/2018 dated 07.03.2018 in Rule 138(3) third proviso which clearly states that where the goods are transported for a distance of upto 50 kms within the State from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, as the case may be, the transporter may not furnish the details of conveyance in Part-B of Form GST EWB-01.
- ✓ As such, at the time of filling of the e-way bill, the petitioner was not under an obligation to fill Part-B of the e-way bill, therefore, the petitioner has not committed any error of law at the time of downloading e-way bill.
- ✓ It was held that where all requisite documents accompanied goods when vehicle had been intercepted and seizure order had been passed, mere non- mentioning of vehicle number in Part-B of e-way bill could not have been a ground for seizure of goods.

2. Portal Issues After Registration

Assessee (Plaintiff)	Alukka Gold Palace
Department (Respondent)	State Tax Officer
Journal of Publication	93 taxmann.com 120
Date of Publication:	6th April, 2018
Ruling authority	High Court of Kerala

FACTS
<ul style="list-style-type: none">• Assessee's request for registration under GST statutes was delayed on account of a mistake committed by assessee during 2009 in providing PAN number of another firm for purpose of obtaining registration under Kerala Value Added Tax Act.• Assessee was granted registration only with effect from 12-8-2017 and hence the assessee was unable to comply with statutory requirements in relation to business for period from 1-7-2017 to 12-8-2017
ISSUE
Whether respondent authorities were to be directed to provide registration to assessee under GST statutes with effect from 1-7-2017
HELD
✓ To err is human. As such, it is obligatory for the authorities to make appropriate provisions to tackle issues of the instant nature as well, so as to enable to comply with the statutory requirements from the date of introduction of the GST statutes.

3. Portal Issues After Registration

Assessee (Plaintiff)	Metal Handicrafts
Department (Respondent)	State of U.P.
Journal of Publication	93 taxmann.com 298
Date of Publication:	12th April, 2018
Ruling authority	High court of Allahabad

FACTS
<ul style="list-style-type: none">• The assessee company, a registered dealer under the UP VAT act, made an application for migration to GST after the enforcement of the GST regime with effect from 1-7-2017.• The revenue authorities completed the migration process but recorded incorrect particulars in the registration form of the assessee.• The assessee contended that despite repeated requests, reminders and personal meetings with the officials, the error was not rectified.• It was also pointed out that the revenue authorities had informed that the system of migration had been closed down and there was no possibility of generating correct particulars and entering into the GST portal.
ISSUE
Whether revenue authorities were to be directed to carry out necessary correction in form of assessee and, if necessary, to open portal for carrying out correction?
HELD
<ul style="list-style-type: none">✓ The court held that there was no reason why the authorities are not opening the portal to enable the assessee to correct the particulars which are wrongly reported in the registration.✓ The revenue authorities, were directed to carry out necessary correction in the form of the assessee in respect of legal name, constitution of the business, the registration details, user ID and password to match with the PAN of the assessee and, if necessary, to open the portal for carrying out the correction.

4. Two separate but dependent contracts for supply of materials and services to be regarded as composite supply

Applicant	West Bengal, EMC Ltd
Journal of Publication	93 taxmann.com 200
Date of Ruling:	11th May,2018
Ruling authority	Authority for Advanced Ruling

FACTS
<ul style="list-style-type: none"> The M/s Power Grid Corporation of India (contractee) awards the applicant, contracts for supply of Tower Packages split up into two separate sets of contracts – one for supply of materials at ex-factory price (First Contract), and the other for supply of allied services like survey and erection of towers, testing and commissioning of transmission lines etc (Second Contract), which also includes inland/local transportation, in-transit insurance, loading/unloading for delivery of materials and storage of them at the contractee's site. The contractee agrees to reimburse the actual GST payable, except on the price component for inland/local transportation, in-transit insurance and loading/unloading. The applicant raises separate freight bills on the contractee as per the rate schedule annexed to the Second Contract. <p>Applicant's View</p> <ul style="list-style-type: none"> As the applicant is not a GTA, his service to the contractee for inland/local transportation is exempt under the GST Act vide Notification No. 9/2017 – IT (Rate) dated 28/06/2017, which, according to him, grants exemption on transportation service provided by an entity other than GTA.
ISSUE
The Applicant wants a Ruling on whether he is liable to pay tax on such freight bills?
HELD
<ul style="list-style-type: none"> ✓ Serial no. 18 of the Exemption Notification exempts services by way of transportation of goods by road, except the services of a GTA. The Applicant is hiring the service of a transport agency and buying insurance services from an insurance service provider. ✓ The Applicant is, therefore, the recipient of such services and not a supplier thereof. ✓ The question of the Applicant providing transportation service, therefore, does not arise. ✓ Further, on the issue whether he is liable to pay tax on such freight bills. It was held that Composite nature of the contract is clear from the clause that defines satisfactory

performance of the First Contract (supply of goods) as the time when the goods so supplied are installed and finally commissioned in terms of the Second Contract.

- ✓ In other words, the First Contract cannot be performed satisfactorily unless the goods have been transported and delivered to the contractee's site, applied for erection of towers, the transmission lines laid, tested and commissioned in terms of the Second Contract.
- ✓ The two promises – supply of the goods and the allied services – are not separately enforceable in the present context.
- ✓ The recipient has not contracted for ex-factory supply of materials, but for the composite supply, namely works contract service for construction of the Tower Package. In view of the foregoing, it was **held** that:
“The applicant supplies works contract service, of which freight and transportation is merely a component and not a separate and independent identity, and GST is to be paid at 18% on the entire value of the composite supply, including supply of materials, freight and transportation, erection, commissioning etc.”

5. Non admissibility of cess as input in GST regime

Applicant	Maharashtra, Kansai Nerolac Paints Ltd.
Journal of Publication	93 taxmann.com 58
Date of Ruling:	05th April, 2018
Ruling Authority	Authority of Advanced Ruling

FACTS
<ul style="list-style-type: none"> • The assessee-company was engaged in the business of manufacture of paints and supply of works contract service. • As an input service distributor, it received Cenvat Credit at Head Office. • Such Cenvat credit also included Krishi Kalyan Cess (KKC), but it could not distribute KKC to its factories, because KKC credit could be utilized only with KKC liability as prescribed under the Cenvat Credit Rules, 2004 and recipient entities being manufacturing units did not have any KKC liability to set off KKC credit. • As a result of which there was accumulation of KKC credit in the service tax return of the assessee [input service distributor] filed on 30-6-2017. • The assessee had carried forward aforesaid accumulated KKC as appeared in the ISD return on 30-6-2017 to electronic credit register maintained under the CGST Act but not utilized.
ISSUE
<p>Whether accumulated credit of KKC which was carried forward in the electronic credit ledger maintained by the assessee under CGST Act will be considered as admissible input tax credit?</p>
HELD
<ul style="list-style-type: none"> ✓ It can be seen that vide notification to CENVAT Credit Rules dated 26-5-2016, it was expressly provided that the items in respect of which CENVAT credit was available would not be utilized for payment of KKC. ✓ Thus, there was a clear demarcation of the credit in respect of KKC. In the instant case, KKC is to be utilized for payment of KKC only. ✓ Therefore, KKC cannot be treated as excise duty or service tax. ✓ Further, non-availability of CENVAT credit with respect to SBC was clarified to the trade by the FAQ issued by CBEC stating “SBC is not integrated in the CENVAT Credit Chain. Therefore, credit of SBC cannot be availed. Further, SBC cannot be paid by utilizing credit of any other duty or tax.” Since SBC and KKC are on the same lines. Therefore, the FAQs explaining SBC apply with equal force to KKC.

- ✓ Further, under the CGST Act, there is no levy of KKC. Under the GST Act too, the FAQs issued by CBEC clarify the non-availability of carry forward of credit with respect to KKC.
- ✓ As specified in the proviso to Section 140(1) of the Act, the taxable person is allowed to carry forward the credit to the extent admissible as INPUT TAX CREDIT under GST.
- ✓ In view thereof, the cenvat credit as referred to in sub-section (1) of section 140 of the CGST Act would not include the credit in respect of KKC.
- ✓ Therefore, accumulated credit by way of KKC will not be considered as admissible input tax credit.

6. Liquidated Damages recovered from payment to be considered as separate transaction and accordingly GST shall be applicable

Applicant	AAR-Maharashtra, Maharashtra State Power Generation Company Ltd.,
Journal of Publication	93 taxmann.com 266
Date of Ruling:	8th May, 2018
Authority of Ruling	Authority of Advanced Ruling

FACTS
<p>Maharashtra State Power Generation Company Limited (Mahagenco) is a State Power Utility engaged in generation of power. In case of various contracts entered into by the company, there is a clause to deduct Liquidity Damages in case of default by the contractor to complete the work in time. The liquidity damages are deducted in two cases.</p> <ul style="list-style-type: none"> • In case of Operation & Maintenance activities, if there is delay on the part of the contractor to provide material or services. Liquidity Damages are deducted from the amount payable to vendor. The LD so deducted is treated as income. • In case of construction of new power plants or renovation of old plants, if there is any delay in completing the contract, then liquidity damages are calculated as per contract terms and levied upon the contractor. <p>Applicants Contention</p> <ul style="list-style-type: none"> • <u>Liquidated damages reduces the value of main supply</u>- Since the recovery of liquidated damages are a part of contract, the value of main supply reduces to the extent of main supply. • <u>Determination of Transaction Value</u>- As per Section 15(1) of the CGST Act, 2017 the transaction value is which actually paid or payable. Hence, the resultant price after liquidated damages will be the Transaction value.
ISSUE
<ul style="list-style-type: none"> • To pass a ruling to decide whether the recovery of Liquidity Damages from the invoices of the contractor amounts to supply under section 7 of the GST Act. • Whether GST is applicable on Liquidity Damages in both the cases? • The GST is payable on the Liquidity Damages; will the rate of GST be classified as a separate supply or will it be classified under the category in which the services of the contractor are classified? • Whether GST is applicable on Liquidity Damages is covered under Schedule II entry no. 5(e) vide HSN code 9997- Other services rate 18% is correct or any other entry is relevant?

- What will be constructed as the time of supply. Will it be the period in which delay is occurring or it is the time when decision to impose liquidated damage is taken?
- If some part of delay has occurred before and after GST roll-out, whether GST will be applicable to the Liquidity Damages imposed for entire delay to the period falling after GST roll out? In case when GST is to be imposed for period after date of GST roll out but due to maximum capping of liquidated damages is calculated at given percentage instead of being period based, then how GST needs to be levied.
- Whether the contractor/vendor will be able to utilize the amount of LD imposed over him as Input Tax Credit subject to satisfying all other conditions?

HELD

- ✓ From the perusal of the contract, the payment of liquidated damages is treated as independent liability. Further, the deduction of LD does not mean that price actually paid is less. The empowerment to levy liquidated damages is for the reason that there has been a delay and the same would be tolerated, but for a price or damages. The impugned income though presented in the form of a deduction from the payments to be made to the Contractor is the income of the applicant and would be supply in terms of clause (e) of para 5 of Schedule II appended to the GST Act
- ✓ GST would be applicable on both the cases of the Liquidity Damages.
- ✓ It would be a supply of service in terms of clause (e) of para 5 of Schedule II appended to the GST Act.
- ✓ Schedule entry for taxable services would cover the impugned levy of liquidated damages.
- ✓ As per the relevant clauses of the agreement, the levy of liquidated damages is not when the delay is occurring. The agreement expressly provides the liability of payment of these liquidated damages by the contractor will be established once the delay in successful completion of trial operation is established on the part of the contractor. Therefore, this would define the time of supply.
- ✓ Sub section (1) of Section 13 of the GST act provides that the liability to pay tax on services shall arise at the time of supply. If the contractor fails to achieve the target within the specified time period which falls under GST regime, then GST shall be levied on such damages.
- ✓ The same was unanswered as the appropriate person to ask the above question is Contractor/ Vendor and not the applicant.

7. Anti-Profiteering Measures in case of increase in MRP

Assessee (Plaintiff)	Kumar Gandharv
Department (Respondent)	KRBL Ltd.
Journal of Publication	93 taxmann.com 149 (NAA)
Date of Publication:	4th May,2018
Ruling authority	National Anti-Profiteering Authority

FACTS
<ul style="list-style-type: none"> • The applicant filed application before National Anti-Profiteering Authority stating that the benefit of reduction in the rate of tax on 'India Gate Basmati Rice' had not been passed on to the consumers as its Maximum Retail Price (MRP) had been increased and, hence, margin of profit had also been increased by the respondent. • The above application was examined by the Standing Committee on Anti-Profiteering and forwarded to the Director General Safeguards (DGSC) • The DGSC reported that the tax rate on the packed Basmati Rice carrying registered brand name of 'India Gate Basmati Rice' had been increased from <i>Nil</i> to 5 per cent after the implementation of the GST with effect from 22-9-2017, due to which input tax credit (ITC) had become available to the respondent. • Further, it is also apparent the ITC available to it as a percentage of the total value of taxable supplies was between 2.69 per cent to 3 per cent whereas the GST on the outward supply of its product was 5 per cent which was not sufficient to discharge its tax liability. • Further, there was also increase in the purchase price of paddy during the year which constituted major part of the cost of the above product.
ISSUE
Whether there was violation of provisions of anti-profiteering under section 171 of the Act.
HELD
It was found that ITC claimed by respondent was not sufficient to meet its output tax liability and it had to pay balance amount of tax in cash and since increase in MRP of product was due to imposition of GST and increase in purchase price of paddy and there was no denial of benefit of ITC which could be passed to consumers and there was no violation of provisions of anti-profiteering under section 171.

8. Whether services provided to Indian Railways are exempt service?

Applicant	Before AAR- New Delhi, VPSSR Facilities
Journal of Publication	93 taxmann.com 268
Date of Ruling:	23rd April 2018
Ruling Authority	Authority of Advanced Ruling

FACTS
<ul style="list-style-type: none">• The applicant has been awarded a contract from Northern Railway, New Delhi for providing services in relation to housekeeping, cleaning, sanitation, waste management, locomotives cleaning and washing at Delhi.• The Northern Railway has refused to pay GST to them on the basis of S. No. 3 of Notification No. 9/2017 - Integrated Tax (Rate) dated 28.06.2017.
ISSUE
<ul style="list-style-type: none">• Whether activities carried out by M/s VPSSR Facilities relating to mechanized cleaning of station, rail wagon, railway office, sheds etc. is covered by the taxable entry - "cleaning activity"?• Whether cleaning and sanitation services provided to railway stations, trains, sheds, railway colonies and railway offices are in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India?
HELD
<p>Regarding issues No.1</p> <p>Under the Finance Act, "Cleaning activity" means cleaning, including specialised cleaning services such as disinfecting, exterminating or sterilising of objects or premises, of Commercial or industrial buildings and premises thereof</p> <p>Further, Reference was placed on the decision of Hon'ble Central Excise and Service Tax Appellate Tribunal (CESTAT) vide Service Tax Appeal no. ST/50007/2014-[DB] in the matter of M/s Mukesh Kalway V/s C.C.E. Bhopal, for treating Railways are commercial organisation.</p> <p>Thus, cleaning activity is a taxable service when provided to railways being commercial organization.</p> <p>Regarding issue No.2</p> <p>S. No. 3 of Notification No. 9/2017 - Integrated Tax (Rate) dated 28.06.2017, exempts the following services from GST:</p> <p>a) Pure services without any supply of material; and</p> <p>b) Are in relation to any functions which are entrusted to the Municipality as per Article 243W of the Constitution of India.</p>

Paragraph 301 of Chapter III of Indian Railways Works Manual suggests that for sanitary arrangements in stations and colonies, the allocation of responsibilities lies with operating, medical and engineering departments.

Thus, there is no entrustment and responsibility of Municipality towards cleaning of Railway premises/properties.

In the light of above provisions, it was held that railway station sanitation and/or cleaning, train cleaning and Railway premises cleaning are not entrusted to Municipality and thus does not fall under the purview of S. No. 3 of Notification No. 9/2017 - Integrated Tax (Rate) dated 28.06.2017.

Therefore, the services in question are not exempt from GST. Thus, the services provided by M/s VPSSR Facilities are taxable and will attract GST @ -48% under the Service Classification code Chapter heading 9994.

9. Release of Seized Goods in Case Official Portal of E-Way Bill does not Permit the Subsequent Changes in E-Way Bill.

Assessee (Plaintiff)	Torque Pharmaceuticals (P.) Ltd.
Department (Respondent)	State of U.P.
Journal of Publication	93 taxmann.com 277
Date of Publication:	10th April, 2018
Ruling authority	High Court of Allahabad

FACTS
<ul style="list-style-type: none"> • The assessee had sent certain goods by way of stock transfer from Baddi (Himachal Pradesh) to Gorakhpur (UP). • On account of resistance by the transport unions, the vehicles belonging to the State of Himachal Pradesh were not permitted to transport the goods beyond Chandigarh and, therefore, the goods were firstly unloaded from the vehicle at Chandigarh and were loaded in another vehicle at Chandigarh for onwards journey. • The assessee initially downloaded the E-way bill when the goods/vehicle started its journey from Himachal Pradesh by mentioning the vehicle number in the E-way bill but after reloading in another vehicle at Chandigarh since the official portal was not permitting to mention the details of two transport vehicles in Eway bill, the registration number of the second transport vehicle had been mentioned in the E way bill by hand.
ISSUE
<p>The Competent Authority of the U.P. Goods and Service Tax Department had seized the above goods of the assessee under transport as well as the vehicle at Mainpuri on the ground that the details of the second transport vehicle had been mentioned in the E-way bill by hand and insisted for bank guarantee for release of the goods.</p>
HELD
<ul style="list-style-type: none"> ✓ One finds no irregularity at the hands of the assessee or the transport company and in such peculiar circumstances the assessee has no option but to mention the details of the subsequent vehicle by hand as the said transport unions do not allow the outside transport vehicles to be plied without their consent and further that the movement of their vehicles. ✓ The tax has been charged while issuing the stock transfer invoices at the prescribed rate. However, if there is any short fall of the tax, it would be open to the concern GST Authority to realise the same from the assessee, in accordance with law. ✓ In view of the aforesaid, the Competent Authority was to be directed to release the seized goods and the vehicle forthwith in favour of the assessee.

10. Non filing of TRAN-1 due to portal issues

Assessee (Plaintiff)	Continental India (P.) Ltd.
Department (Respondent)	Union of India [2018
Journal of Publication	91 taxmann.com 28491
Date of Publication:	24th January, 2018
Ruling authority	High court of Allahabad

FACTS
<ul style="list-style-type: none">Continental India (P.) Ltd. wanted to file GST TRAN-1 on last date of the due date, i.e. 27th December, 2017.However, electronic system of GSTN failed to respond and the form (GST TRAN-1) could not be filed.It was informed to the applicant that the portal for GST TRAN-1 filing would be reopened.Applicant has also submitted application for transitional credit manually on 10-1-2018.
ISSUE
Department claimed that Portal was likely to be opened but failed to provide a specific time. Company is afraid of losing eligible credit if the site does not reopen.
HELD
<ul style="list-style-type: none">✓ The department was directed to reopen the portal within two weeks. If unable to do so, they will entertain the application of company manually and pass orders on it after due verification of the credits as claimed by the company.✓ The decision was held in favor of the applicant.