



GST KEY UPDATES February, 2023

HRD 008/ 22-23

HINESH R. DOSHI & CO. LLP
Chartered Accountants



CONTENTS

Sr. No.	Particulars	Page No.
1.	Significant Notifications	3
2.	Recommendations of 49th GST Council Meeting	5
3.	Recent Case Laws	
	✓ Determining if the Order of cancelling GST registration can be quashed and set aside if entrepreneur has valid reasons for not filing of returns.	9
	✓ Determination of Applicants liability to pay additional tax for ongoing contract which was started before implementation of GST.	11
	✓ Determining whether withholding of refund after receipt of positive verification of report and NOC in case of risky exporter is valid or not.	13
	✓ Departmental authorities can initiate proceedings relying on valid material on record.	15
	✓ Determining if Minor discrepancy in description of vehicle in e-way bill cannot attract proceedings for detention of goods	17
	✓ GST on supply of services for right to use of car parking space and it's applicable rate.	19
	✓ Whether the supply of assistance in design and development of patterns used for manufacture of camshaft to a customer is a composite supply of services	21
	✓ Treated water obtained from Common Effluent Treatment Plant which is classified as de-mineralized water is not purified water and it is not exempted from GST; Such water is liable to GST of 18	22
	✓ What percentage of GST Input should be claimed by an applicant trading in exempted as well as taxable goods for certain services received?	24
	✓ GST applicability on vouchers and it's applicable rate.	26



SIGNIFICANT NOTIFICATIONS

Notification No.	Key Update						
<p>03/2023 Central Tax (Rate), Dt- 28-02- 2023;</p> <p>03/2023 Integrated Tax (Rate), Dt- 28-02-2023</p> <p>and</p> <p>03/2023 Union Territory Tax (Rate), Dt- 28-02-2023</p>	<p>➤ <u>Further amendments in the Notification for GST rates</u></p> <p>The Notification specifies the rate of Tax, that shall be levied on Intra-State supplies of goods, the description of which is specified in column (3) of the said Schedules.</p> <p>In the said notification-</p> <p>(i) in Schedule I –2.5% (5% IGST), against S. No. 91A, in column (3), for the entry, the following entry shall be substituted, namely: - “Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled ”</p> <p>(ii) in Schedule II –6% (12% IGST), after S. No. 186 and entries relating thereto, the following S. No. and entries shall be inserted, namely: -</p> <table border="1" data-bbox="456 1121 1516 1199"> <thead> <tr> <th>(1)</th> <th>(2)</th> <th>(3)</th> </tr> </thead> <tbody> <tr> <td>186A</td> <td>8214</td> <td>Pencil sharpeners</td> </tr> </tbody> </table> <p>(iii) in Schedule III –9% (18% IGST), against S. No. 302A, in column (3), at the end, the brackets and words “[other than pencil sharpeners]” shall be inserted.</p> <p>This notification shall come into force on the 1st day of March, 2023.</p>	(1)	(2)	(3)	186A	8214	Pencil sharpeners
(1)	(2)	(3)					
186A	8214	Pencil sharpeners					
<p>04/2023 Central Tax (Rate), Dt- 28-02- 2023;</p> <p>04/2023 Integrated Tax (Rate), Dt- 28-02-2023</p> <p>and</p>	<p>➤ <u>Further amendments in the Notification</u></p> <p>This Notification was last amended by Notification No. 07/2022-Central Tax (Rate):</p> <p>Against S. No. 94, for the entry in column (3), the entry “(i)Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, other than pre-packaged and labelled.; (ii) Khandsari Sugar, other than pre-packaged and labelled” shall be substituted;</p>						

<p>04/2023 Union Territory Tax (Rate), Dt- 28-02-2023</p>	<p>This has been further amended via Notification No. 04/2023- Central Tax (Rate) to insert the following entry, after the item (ii)- “(iii) Rab, other than pre-packaged and labelled”.</p> <p>This notification shall come into force on the 1st day of March, 2023.</p>
<p>01/2023 Compensation Cess (Rate), Dt- 28-02-2023</p>	<p>➤ <u>The Central Government makes further amendments in the Notification No. 1/2017-Compensation Cess (Rate), dated the 28th June, 2017.</u></p> <p>Notification No. 1/2017 specifies the rate of cess as specified in column (4) of the Schedule appended to this notification, that shall be levied on the intra-State supplies or inter-State supplies of such goods.</p> <p>In the said notification, in the Schedule, against Sl. No. 41A, in column (3), for the entry, the following entry shall be substituted, namely: - “Coal rejects supplied to a coal washery or by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person”.</p> <p>This notification shall come into force on the 1st day of March, 2023.</p>



Recommendations of 49th GST Council Meeting

Sr.No.	Key Update																																																																					
1.	<p>➤ <u>Government of India to clear entire pending balance GST compensation of Rs. 16,982 crore for June'2022.</u></p> <ul style="list-style-type: none">• Government of India has decided to clear the entire pending balance GST compensation of Rs. 16,982 crore for June'2022 as shown in the table below. Since, there is no amount in the GST compensation Fund, Centre decided to release this amount from its own resources and the same will be recouped from the future compensation cess collection. With this release, Centre would clear the entire provisionally admissible compensation due for five years as envisaged in the GST (Compensation to States) Act, 2017. <table border="1"><thead><tr><th>S. No.s</th><th>Name of State/ UT</th><th>Balance GST compensation pending for June'2022 (Rs. In crore)</th></tr><tr><th>(1)</th><th>(2)</th><th>(3)</th></tr></thead><tbody><tr><td>1.</td><td>Andhra Pradesh</td><td>689</td></tr><tr><td>2.</td><td>Bihar</td><td>92</td></tr><tr><td>3.</td><td>Chhattisgarh</td><td>505</td></tr><tr><td>4.</td><td>Delhi</td><td>1,212</td></tr><tr><td>5.</td><td>Goa</td><td>120</td></tr><tr><td>6.</td><td>Gujarat</td><td>865</td></tr><tr><td>7.</td><td>Haryana</td><td>629</td></tr><tr><td>8.</td><td>Himachal Pradesh</td><td>229</td></tr><tr><td>9.</td><td>Jammu and Kashmir</td><td>210</td></tr><tr><td>10.</td><td>Jharkhand</td><td>342</td></tr><tr><td>11.</td><td>Karnataka</td><td>1,934</td></tr><tr><td>12.</td><td>Kerala</td><td>780</td></tr><tr><td>13.</td><td>Madhya Pradesh</td><td>730</td></tr><tr><td>14.</td><td>Maharashtra</td><td>2,102</td></tr><tr><td>15.</td><td>Odisha</td><td>529</td></tr><tr><td>16.</td><td>Puducherry</td><td>73</td></tr><tr><td>17.</td><td>Punjab</td><td>995</td></tr><tr><td>18.</td><td>Rajasthan</td><td>815</td></tr><tr><td>19.</td><td>Tamil Nadu</td><td>1,201</td></tr><tr><td>20.</td><td>Telangana</td><td>548</td></tr><tr><td>21.</td><td>Uttar Pradesh</td><td>1,215</td></tr></tbody></table>	S. No.s	Name of State/ UT	Balance GST compensation pending for June'2022 (Rs. In crore)	(1)	(2)	(3)	1.	Andhra Pradesh	689	2.	Bihar	92	3.	Chhattisgarh	505	4.	Delhi	1,212	5.	Goa	120	6.	Gujarat	865	7.	Haryana	629	8.	Himachal Pradesh	229	9.	Jammu and Kashmir	210	10.	Jharkhand	342	11.	Karnataka	1,934	12.	Kerala	780	13.	Madhya Pradesh	730	14.	Maharashtra	2,102	15.	Odisha	529	16.	Puducherry	73	17.	Punjab	995	18.	Rajasthan	815	19.	Tamil Nadu	1,201	20.	Telangana	548	21.	Uttar Pradesh	1,215
S. No.s	Name of State/ UT	Balance GST compensation pending for June'2022 (Rs. In crore)																																																																				
(1)	(2)	(3)																																																																				
1.	Andhra Pradesh	689																																																																				
2.	Bihar	92																																																																				
3.	Chhattisgarh	505																																																																				
4.	Delhi	1,212																																																																				
5.	Goa	120																																																																				
6.	Gujarat	865																																																																				
7.	Haryana	629																																																																				
8.	Himachal Pradesh	229																																																																				
9.	Jammu and Kashmir	210																																																																				
10.	Jharkhand	342																																																																				
11.	Karnataka	1,934																																																																				
12.	Kerala	780																																																																				
13.	Madhya Pradesh	730																																																																				
14.	Maharashtra	2,102																																																																				
15.	Odisha	529																																																																				
16.	Puducherry	73																																																																				
17.	Punjab	995																																																																				
18.	Rajasthan	815																																																																				
19.	Tamil Nadu	1,201																																																																				
20.	Telangana	548																																																																				
21.	Uttar Pradesh	1,215																																																																				

22.	Uttarakhand	345
23.	West Bengal	823
	Total	16,982

2.

➤ **GST Council adopts report of Group of Ministers (GOM) on GST Appellate Tribunal with certain modifications.**

- The Council adopted the report of Group of Ministers with certain modifications. The final draft amendments to the GST laws shall be circulated to Members for their comments. The **Chairperson** has been **authorised** to finalise the same.

3.

➤ **GOM report on Capacity Based Taxation and Special Composition Scheme in certain Sectors on GST approved.**

- With a view to plug the leakages and improve the revenue collection from the commodities like **pan masala, gutkha, chewing tobacco**, the Council approved the recommendations of the GoM including, inter alia, that-
- the capacity based levy not to be prescribed; compliance and tracking measures to be taken to plug leakages/evasions; exports of such commodities to be allowed only against LUT with consequential refund of accumulated ITC; **compensation cess** levied on such commodities to be changed **from ad valorem to specific tax based levy** to boost the first stage collection of the revenue

4.

➤ **Changes in GST rates of “Rab” and Pencil Sharpener.**

1. Changes in GST rates of Goods and Services

Sr.No.	Description	From	To
1.	‘Rab’	18%	5% - if sold prepackaged and labelled Nil - if sold otherwise
2.	Pencil Sharpener	18%	12%

• **Other changes relating to Goods and Services**

1. It was decided to suitably amend notification No. 104/94-Customs dated 16.03.1994 so that if a device like tag- tracking device or data logger is already affixed on a container, no separate IGST shall be levied on such affixed device and the ‘nil’ IGST treatment available for the containers under notification No. 104/94-Customs shall also be available to the such affixed device subject to the existing conditions.

	<p>2. It has been decided to amend entry at Sl. No. 41A of notification No. 1/2017-Compensation Cess (Rate) so that exemption benefit covers both coal rejects supplied to and by a coal washery, arising out of coal on which compensation cess has been paid and no input tax credit thereof has been availed by any person.</p> <p>3. It has been decided to extend the exemption available to educational institutions and Central and State educational boards for conduct of entrance examination to any authority, board or a body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.</p> <p>4. It has been decided to extend the dispensation available to Central Government, State Governments, Parliament and State Legislatures with regard to payment of GST under reverse charge mechanism (RCM) to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers etc.</p>
--	--

MEASURES FOR FACILITATION OF TRADE:

Sr.No.	Key Update
1.	<p>➤ <u>Extension of time limit for application for revocation of cancellation of registration and one time amnesty for past cases</u></p> <ul style="list-style-type: none"> • The time limit for making an application for revocation of cancellation of registration be increased from 30 days to 90 days; where the registered person fails to apply for such revocation within 90 days, the said time period may be extended by the Commissioner or an officer authorised by him in this behalf for a further period not exceeding 180 days. • The Council has also recommended that an amnesty may be provided in the past cases, where registration has been cancelled on account of non-filing of the returns, but application for revocation of cancellation of registration could not be filed within the time specified in section 30 of CGST Act, by allowing such persons to file such application for revocation by a specified date, subject to certain conditions.
2.	<p>➤ <u>Amendment to Section 62 of CGST Act, 2017 to extend timelines under sub-section (2) thereof and one time amnesty for past cases:</u></p> <ul style="list-style-type: none"> • As per sub-section (2) of section 62 of CGST Act, 2017, the best judgment assessment order issued under sub-section (1) of the said section is deemed to be withdrawn if the relevant return is filed within 30 days of service of the said

	<p>assessment order. The Council recommended to amend section 62 so as to increase the time period for filing of return for enabling deemed withdrawal of such best judgment assessment order, from the present 30 days to 60 days, extendable by another 60 days, subject to certain conditions.</p> <ul style="list-style-type: none"> The Council has also recommended to provide an amnesty scheme for conditional deemed withdrawal of assessment orders in past cases where the concerned return could not be filed within 30 days of the assessment order but has been filed along with due interest and late fee upto a specified date, irrespective of whether appeal has been filed or not against the assessment order, or whether the said appeal has been decided or not. 						
3.	<p>➤ <u>Rationalisation of Late fee for Annual Return for FY 2022-23 onwards</u></p> <table border="1" data-bbox="391 627 1433 993"> <thead> <tr> <th data-bbox="391 627 693 690"><u>Turnover limit</u></th> <th data-bbox="693 627 1433 690"><u>Late fees</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="391 690 693 842">Upto 5 crore</td> <td data-bbox="693 690 1433 842">Rs 50 per day (Rs 25 CGST + Rs 25 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).</td> </tr> <tr> <td data-bbox="391 842 693 993">More than Rs. 5 crores and up to Rs. 20</td> <td data-bbox="693 842 1433 993">Rs 100 per day (Rs 50 CGST + Rs 50 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).</td> </tr> </tbody> </table>	<u>Turnover limit</u>	<u>Late fees</u>	Upto 5 crore	Rs 50 per day (Rs 25 CGST + Rs 25 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).	More than Rs. 5 crores and up to Rs. 20	Rs 100 per day (Rs 50 CGST + Rs 50 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).
<u>Turnover limit</u>	<u>Late fees</u>						
Upto 5 crore	Rs 50 per day (Rs 25 CGST + Rs 25 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).						
More than Rs. 5 crores and up to Rs. 20	Rs 100 per day (Rs 50 CGST + Rs 50 SGST), subject to a maximum of an amount calculated at 0.04 per cent. of his turnover in the State or Union territory (0.02% CGST + 0.02% SGST).						
4.	<p>➤ <u>Amnesty in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10:</u></p> <ul style="list-style-type: none"> To provide relief to a large number of taxpayers, the Council recommended amnesty schemes in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10 by way of conditional waiver/ reduction of late fee. 						
5.	<p>➤ <u>Rationalization of provision of place of supply of services of transportation of goods:</u></p> <ul style="list-style-type: none"> Council recommended to rationalize the provision of place of supply for services of transportation of goods by deletion of section 13(9) of IGST Act, 2017 so as to provide that the place of supply of services of transportation of goods, in cases where location of supplier of services or location of recipient of services is outside India, shall be the location of the recipient of services. 						



RECENT CASE LAWS

1. Determining if the Order of cancelling GST registration can be quashed and set aside if entrepreneur has valid reasons for not filing of returns.

Applicant	Rohit Enterprises
Journal of Publication	[2023] 147 taxmann.com 505 (Bombay)
Date of Ruling	16.02.2023
Ruling Authority	HIGH COURT OF BOMBAY

FACTS

- The petitioner is a proprietary firm engaged in the business of fabrication work. It is registered under the Central Goods and Services Tax Act, 2017 (GST Act) as well as Maharashtra State Goods and Services Tax Act, 2017.
- Petitioner contends that since he had undergone angioplasty, and the firm suffered financial set back in pandemic situation, GST returns from August 2021 could not be filed.
- The State Tax Officer, Aurangabad issued a show cause notice dated 28-02-2022 calling upon the petitioner to furnish his explanation within a period of 7 working days. The notice stipulated that the registration of the petitioner stood suspended.
- The petitioner requested for revocation of the cancellation of registration. In response, the State Tax Officer issued show cause notice for rejection of the application.
- The petitioner filed appeal under section 107 of the Maharashtra Goods and Service Tax Act, 2017 challenging cancellation of registration. The Dy. Commissioner/State Tax (Appeal), Aurangabad Division rejected the appeal on the ground of limitation that the appeal has been submitted beyond the prescribed period provided under section 107 (1) and 107 (4) of the MGST Act, 2017

ISSUE

- Since, petitioner, who was a small scale entrepreneur could not carry on production activities in absence of GST registration which would affect its right to livelihood, order of cancelling GST registration was to be quashed and set aside

HELD

- The petitioner was earning his livelihood through his fabrication business and requires registration under GST Act to run the business. The entire world suffered during the pandemic. The small scale industrialists and service providers like petitioner lost their business
- To add apathy to this situation, the petitioner suffered medical emergency. He was required to undergo medical treatment for heart disease
- The petitioner suffered cancellation of registration. Even he lost his appellate remedy because of lapse of limitation. The petitioner has been practically left remediless
- Since it is merely a matter of cancellation of registration, the question of limitation should not bother us since it cannot be said that any right has accrued to the State which would rather be adversely affected by cancellation.
- Even looking to the object of the provisions under GST Act, it is not in the interest of the government to curtail the right of the entrepreneur like petitioner. The petitioner must be allowed to continue business and to contribute to the state's revenue.
- *"In the light of the above submission, we are inclined to allow the writ petition as under :-
(i) The writ petition is allowed.
(ii) The order dated 28-02-2022 suspending the GST registration, the order dated 14-03-2022 cancelling GST registration of the petitioner passed by the State Tax Officer and the order dated 21-10-2022 passed by the Dy. Commissioner of Tax, Aurangabad (Appeal) No.DC/APP/E-001/ABAD/GST/323/2022-2023 are quashed and set aside."*
- *"We hold and declare that the registration No.27AHQPD2485F1Z7 in the name of the petitioner is valid, from 28-02-2022 onwards subject to the condition that the petitioner files up to date GST returns and deposits entire pending dues along with applicable interest, penalty, late fees in terms of Rule 23 (1) of MAST Rules, 2017."*

2. [Determination of Applicants liability to pay additional tax for ongoing contract which was started before implementation of GST.](#)

Applicant	Bhardwaj Constructions
Journal of Publication	[2023] 147 taxmann.com 464 (Allahabad)[07-02-2023]
Date of Ruling	07.02.2023
Ruling Authority	HIGH COURT OF ALLAHABAD

FACTS

- Bhardwaj Constructions is a partnership firm, which is undertaking several works contracts for Public Works Department and has been raising running bills which have been paid by the respondents, but the payment of GST on such bills is not being made by the respondents.
- Prior to the enforcement of the GST regime, the petitioner was awarded a number of contracts by the Public Works Department for construction, widening and beautification of roads in various Districts of the State for which the petitioner had paid VAT as required.
- After the enforcement of the GST regime contracts for new works and contracts which were already in existence and were awarded before the GST regime, all were to be governed by the GST regime and the additional tax burden shall be computed with the help of formula with respect to existing contract provided under the Government Order dated 9-11-2017.
- The amount of additional tax burden so determined had to be paid to the contractor and the said amount of tax was thereafter to be deposited by the contractor with the department.
- In respect of some works contracts the petitioner has realized after sometime that payment being made by the respondents on such bills/invoices raised by the petitioner are only with respect to principal amount and not the amount of GST.
- The petitioner consequently could not deposit the huge amount of tax liability with the GST Department and they are in the process of initiating recovery proceedings against the petitioner.

ISSUE

- Whether the Applicant has to bear additional tax liability for contracts on which they had paid adequate VAT but after GST implementation they had not received additional GST amount from Public Works Department to pay to the contractors?

HELD

- Petitioner has raised running bill which have been paid by authority but GST is not paid on such bill. there has been No dispute in respect of payment made prior to enforcement of GST regime.
- Amount of additional tax burden so determined had to be paid to the contractor and the said amount of tax was thereafter to be deposited by the contractor with the department.
- Authority had deducted tax (TDS) at the rate of 2% which is only partial deduction of the total tax and in respect of some contracts payment was made only in respect of principal amount and not amount of GST.
- Petitioner is directed to make a fresh representation to the authority and the authority to decide by way of speaking order [Section 2(119) of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017] [Paras 3 & 4] [Partly in favor of assessee].

3. **Determining whether withholding of refund after receipt of positive verification of report and NOC in case of risky exporter is valid or not.**

Applicant	Choksi Exports
Journal of Publication	R/SPECIAL CIVIL APPLICATION NO. 23798 OF 2022
Date of Ruling	03 rd February,2023
Ruling Authority	High Court of Gujarat

FACTS

- Petitioner is a partnership firm having its registered office in the State of Gujarat, which is engaged in the business of manufacturing and exporting of Organic pigment.
- The petitioner had been marked as “risky exporters” .The premises of the petitioner were physically verified.
- The petitioner has submitted all information as prescribed under Circular No.131/1/2020-GST dated 23.01.2020, vide email dated 17.01.2022. There are other compliance to be made, which have already been done and eventually the grievance of the petitioner was moved by way of a Grievance Application dated 15.06.2022.
- Further, the respondents ought to have granted the provisional refund to the extent of 90% as provide under Section 54(6) of the CGST Act read with Rule 91 of the CGST Rules, which the respondents failed to do so.
- The respondent no.7 has not issued NOC for issuing refund even after receipt of positive verification report.

ISSUE

- Whether it is valid to withhold refund despite receipt of positive verification report and NOC in case of risky exporter tag?

HELD

- In this case, the petitioner has filed shipping bills for all the exports and the petitioner is not prosecuted for any offence under the Act or under the existing law and has already reversed the ITC, therefore, there is no point for the respondents herein to withheld the refund.
- Considering the provisions of law and the judgment referred to above of the Telangana High Court the respondents-authorities are directed to grant the amount of IGST refund to the petitioner, as claimed by the petitioner as provided under Section 54(6) of the

CGST Act r/w Rule 91 of the CGST Rules and credit such amount to the petitioner's account within a period of three weeks from the date of receipt of copy of this order.

4. Departmental authorities can initiate proceedings relying on valid material on record.

Applicant	S.R. Sales
Journal of Publication	WRIT TAX NO. - 1658 OF 2018
Date of Ruling	02.02.2023
Ruling Authority	ROHIT RANJAN AGARWAL, J.

FACTS

- The petitioner who is the consignee of the goods was bringing the goods through the transporter from State of Karnataka to the State of U.P.
- The petitioner submitted that the goods were dispatched by the cosigner to the consignee i.e. petitioner through the transporter. The truck which was bringing the goods was changed twice at Amrawati and thereafter at Nagpur.
- The goods which were brought upto Nagpur by Truck No. U.P.- 78DT/6036 was in fact carried upto Kanpur and it was the second transaction done by the petitioner bringing in the goods from Nagpur to the State of U.P. through Truck No. U.P.-78CN/4605.
- It was then contended that during the examination of the documents of Truck No. U.P.- 78DT/6036, it has been found that e-way bill which was carried by that truck was e-way bill No. 141063074371, while the goods which were detained from Truck No. U.P.- 78CN/4605 carried e-way bill No. 161073493422.

ISSUE

- Whether Departmental authorities cannot initiate proceedings merely based on presumptions that goods were transported by two different vehicles using same e-way bill without relying on valid material on record?

HELD

- Information pertaining to goods being brought from Karnataka into UP and that of trucks being changed twice was provided for and same was evident from e-way bill - Presumption drawn by authorities could not be accepted without any material on record - Argument put forth was merely based on presumption without any valid material on record - Proceedings were initiated solely on presumption - Impugned orders were to be set aside.
- There is no material on record to demonstrate that goods were brought twice by the petitioner.

- Petition was to be allowed [Section 129 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017] [Para 8]
- This Court finds that the orders passed on 2-11-2018 and 10-12-2018 are unsustainable in the eyes of the law and the same are hereby set aside. The revision succeeds and is hereby allowed. The amount already deposited shall be released in favour of the petitioner within 15 days.

5. Determining if Minor discrepancy in description of vehicle in e-way bill cannot attract proceedings for detention of goods

Applicant	Varun Beverages Ltd
Journal of Publication	[2023] 147taxmann.com 341 (Allahabad)[02-02-2023]
Date of Ruling	02.02.2023
Ruling Authority	HIGH COURT OF ALLAHABAD

FACTS

- The petitioner before this Court is a registered dealer under the Goods and Service Tax Act, 2017
- It is engaged in the business of manufacturing and sale of aerated water, fruit juice based drinks etc.
- The dealer was making a stock transfer from its unit at Gautam Buddha Nagar, Greater NOIDA depot to a sale depot at Kuberpur, Agra
- The goods were being shifted through Truck No. HR-73/6755 which was accompanying delivery challan, e-way bill on 10-6-2018. The mobile squad on 10-6-2018 intercepted the goods and detained the vehicle in question along with the goods on the premise that in the e-way bill the vehicle number has been mentioned as UP-13T/6755

ISSUE

- Minor discrepancy in description of vehicle in e-way bill could not attract proceedings for detention of goods and penalty as there was no intention on part of dealer to evade tax, therefore, orders for detention and penalty were to be set aside

HELD

- The bilty which is the document of the transporter mentions the vehicle number as HR-73/6755. From perusal of the e-way bill which has been brought on record, it is clear that the vehicle number has been mentioned as UP-13T/6755
- It is apparently clear that mistake is as far as the registration of the vehicle in a particular State and in place of HR-73, UP-13T has been mentioned in the e-way bill, while number of the vehicle 6755 is same
- As there is no dispute to the fact that it is a case of stock transfer and there is no intention on the part of dealer to evade any tax, the minor discrepancy as to the registration of

vehicle in State in the e-way bill would not attract proceedings for penalty under Section 129

- In view of said fact, the orders dated 12-6-2018 and 1-7-2019 are unsustainable in the eyes of law and both the orders are hereby set aside

6. GST on supply of services for right to use of car parking space and it's applicable rate.

Applicant	Eden Real Estates (P.) Ltd., In re
Journal of Publication	ADVANCE RULING NO. 19/WBAAR/2022-23
Date of Ruling	22/12/2022
Ruling Authority	Authority For Advance Rulings, West Bengal

FACTS

- The applicant is stated to be in the business of construction of residential apartments intended for sale to buyers.
- It is submitted that the prospective buyer's are given an option to opt for car parking space along with the apartment being booked by them and accordingly the buyers who opt for availing the car parking facility also, are charged a certain sum towards right to use of car parking space and the same forms part of the total consideration charged by the applicant towards sale of the apartment by the applicant.

ISSUE

- Whether the amounts charged by the applicant for right to use of car/two wheeler vehicle parking space along with the sale of under constructed apartments to its prospective buyers is to be treated as a composite supply of construction of residential apartment services or the same is a distinct supply under section 7 of the CGST/WBGST Act, 2017?
- If the same is not to be treated as a composite supply, then the rate of tax applicable on such charges collected by the applicant from its prospective customers?
- If such apartments are sold after receipt of completion certificate from the competent authority, then whether the amounts collected for right to use of car parking space will also be treated as a NON GST supply under Sch III of the CGST/WBGST Act, 2017 and no GST shall be payable on the amounts charged towards such right to use car parking space?
- Whether the taxability would change if such charges for right to use of car parking space is collected after the sale of the apartment has been done i.e. the customer had not opted for the car parking space at the time of purchase of the under constructed unit, but had sought for the same after the unit was handed over to the customer after receipt of the completion certificate?

HELD

The Competent Authority held that:

- As per section 2(30) of the GST Act, “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. Hence, supply of services for right to use of car parking space is a separate supply and not to be construed as a composite supply of construction of residential apartment services.
- Construction services under Heading 9954 specified at items (i), (ia), (ib), (ic) and (id) against serial number 3 of Notification 11/2017-Central Tax (Rate) dated 28.06.2017, as amended vide Notification No. 03/2019-Central Tax (Rate) dated 29.03.2019, attract tax @ 1.5% and @ 7.5%, as the case may be w.e.f. 01.04.2019. Further construction services under Heading 9954 specified at items (ie) and (if) against the aforesaid serial number attract tax @ 12% and @ 18% respectively. In the given case, supply of services for right to use of car parking space would be taxable @ 18%.
- No GST would be applicable in case the apartment is sold after receipt of the completion certificate issued by the competent authority, since the transaction would be a sale of building and covered under Schedule III of the CGST/WBGST Act, 2017. However as discussed in point (1) since supply of services for right to use of car parking space is a separate supply and not to be construed as a composite supply of construction of residential apartment services, GST is applicable on supply of services for right to use of car parking space.
- Tax is payable on supply of services for right to use of car parking space [Section 9 of Central Goods and Services Tax Act, 2017].

7. Whether the supply of assistance in design and development of patterns used for manufacture of camshaft to a customer is a composite supply of services

Applicant	M/s. Precision Camshafts Ltd.
Journal of Publication	ADVANCE RULING NO. MAH/AAAR/DS-RM/16/2022-23
Date of Ruling	20/01/2023
Ruling Authority	APPELLATE AUTHORITY FOR ADVANCE RULING, MAHARASHTRA

FACTS
<ul style="list-style-type: none"> Precision Camshafts Limited is engaged in business of manufacturing and selling the camshafts to the domestic as well as overseas customers. Camshafts are rotating shaft mounting in a 4-stroke engines. The camshaft is used for manufacturing engines and contributes in controlling engine power, emissions and fuel consumption. The camshafts are critical components as a small amount of error or misalignment will either result in leakage of fuel through the exhaust route or insufficient power stroke. So, each camshaft is unique and made as per precise specification of respective engine
ISSUE
<ul style="list-style-type: none"> Whether the supply of assistance in design and development of patterns used for manufacture or camshaft to a customer is a composite supply of services, the principal supply being supply of services?
HELD
<p>The Competent Authority held that:</p> <ul style="list-style-type: none"> As per the definition of term “composite supply” and the essential conditions enumerated in the definition, it is seen that the composite supply comprises of two or more taxable supplies of goods or services or both, or any combination thereof should be made by a taxable person to a recipient. In the instant case, it is clear that the impugned transaction between the appellant and the overseas customers is of supply of goods. Hence contentions of the appellant that impugned transaction is composite supply where the principal supply is supply of services is not valid. In the view of above discussion the competent authority held that the impugned transaction is supply of goods.

8. Treated water obtained from Common Effluent Treatment Plant which is classified as de-mineralized water is not purified water and it is not exempted from GST; Such water is liable to GST of 18%

Applicant	M/s. Hojiwala Infrastructure Ltd., In re.
Journal of Publication	ADVANCE RULING NO. GUJ/GAAR/R/2022/48
Date of Ruling	30/12/2022
Ruling Authority	AUTHORITY FOR ADVANCE RULINGS, GUJARAT

FACTS
<ul style="list-style-type: none"> M/s. Hojiwala Infrastructure Ltd. is a Common Effluent Treatment Plant (CETP) set up to treat and recycled the effluent for conveyance, Treatment and Disposal of waste water generated from the industries. The treated water can be used for non-potable activity. The waste water is converted into treated water by passing it through various processes to make it usable for industries. As the water is not purified, it is not fit for human consumption.
ISSUE
<ul style="list-style-type: none"> Whether 'Treated Water' obtained from CETP (classifiable under Chapter 2201) will be eligible for exemption from GST by virtue of SI. No. 99 of the Exemption Notification No. 0212017- Integrated Tax (Rate), dated 28-06-2017 (as amended) as 'Water (other than aerated, mineral, purified, distilled, medical, ionic, battery, demineralized and water sold in sealed container)'? Whether 'Treated Water' obtained from CETP (classifiable under Chapter 2201) is taxable at 18 per cent by virtue of SI. No.24 of Schedule - III of Notification No.0112017- Integrated Tax (Rate), dated 28-6-2017 (as amended) as 'Waters, including natural or artificial mineral waters, and aerated waters, not containing added sugar or other sweetening matter nor flavoured (other than Drinking water packed in 20 litres bottles)?
HELD
<p>The Competent Authority held that:</p> <ul style="list-style-type: none"> The treated water obtained from CETP (classifiable under Chapter 2201) is not eligible for exemption from payment of Tax by virtue of SI. No. 99 of the Exemption Notification No. 0212017- CT (Rate) dated 28-6-2017 (as amended) and SI. No. 99 of the Exemption Notification No. 0212017- Integrated Tax (Rate), dated 28-6-2017 (as amended).

- The treated water obtained from CETP (classifiable under Chapter 2201) is taxable at 18 per cent by virtue of SI. No. 24 of Schedule - III of Notification No. 01/2017- CT (Rate) (as amended) and SI. No. 24 of Schedule - III of Notification No. 01/2017-Integrated Tax (Rate), dated 28-6-2017 (as amended).

9. What percentage of GST Input should be claimed by an applicant trading in exempted as well as taxable goods for certain services received?

Applicant	M/s. Meat Mart Unit of the New Bangalore Ham Shop
Journal of Publication	ADVANCE RULING NO. KAR/ADRG/07/2023
Date of Ruling	23/01/2023
Ruling Authority	AUTHORITY FOR ADVANCE RULINGS, KARNATAKA

FACTS

- The applicant has stated that they are trading in both taxable and exempted goods of fresh and semi processed meat products like chicken, mutton, fish, pork and all types of packed cold cuts spices and masala powder etc
- The percentage of exempted goods traded is around 90% and the balance 10% is traded as taxable goods.

ISSUE

- What percentage of GST input tax should be claimed from the nature of business of the applicant as mentioned, for the following services received from our service providers.
 - a. GST paid for our shop on commercial rent to landlord.
 - b. GST paid on commission to Dunzo and Swiggy for ecommerce online services.
 - c. GST paid on service charges charged by paytm.
 - d. GST paid on service charges charged by banks.
- What percentage of GST input tax should be claimed from the nature of business of the applicant as mentioned, for the following other general goods purchased for carrying our business.
 - a. Packing material
 - b. Printed material
 - c. Capital goods like cutting machine, weighing scale, refrigerators, computers and hardware and software goods.
- What will be the GST consequences if we purchased goods from unregistered and composition dealers?

HELD

The Competent Authority held that:

- In both the questions 1 and 2 mentioned above, the applicant is involved in the supply of both the taxable and exempted supplies. The applicant has to avail the input tax credit proportionately in terms of section 16 & 17 of CGST Act 2017 read with the rule 42 of CGST Rules 2017, wherein the procedure to be followed is clearly mentioned.
- The question 3 is not covered under the issues referred to in section 97(2) of CGST Act 2017, in respect of which an applicant can seek advance ruling and hence this Authority refrains from giving any ruling.

10. GST applicability on vouchers and it's applicable rate.

Applicant	Premier Sales Promotion (P.) Ltd.
Journal of Publication	ADVANCE RULING NO. KAR/AAAR/11/2021-22
Date of Ruling	22/12/2021
Ruling Authority	Authority For Advance Rulings, Karnataka

FACTS

- Assessee is a registered Company engaged in the transactions of procuring Pre-paid Payment Instruments of Gift Vouchers, Cash Back Vouchers and E-Vouchers from the issuers and supplying them to its clients for specified face value.
- Its clients issue such Vouchers to their employees in the form of incentive or to other beneficiaries under promotional schemes for use as consideration for purchase of goods or services or both as specified therein.

ISSUE

- Whether the Pre-paid Payment Instruments or vouchers themselves, or the act of supplying them is taxable?
- If the transaction were liable to tax, under which category and what would be the rate of tax applicable?

HELD

The Competent Authority held that:

- The definition of 'vouchers' as defined under the CGST Act, makes it clear that vouchers are mere instruments accepted as consideration for supply of goods or services. They have no inherent value of their own. As vouchers are considered as instruments, they would fall under the definition of 'money', defined under CGST Act. The CGST Act excludes 'money' from the definition of goods and service and therefore not liable to tax.
- In substance the transaction between the assessee and his clients is procurement of printed forms and their delivery. The printed forms are like currency. The value printed on the form can be transacted only at the time of redemption of the voucher and not at the time of delivery of vouchers to assessee's client. Therefore, the issuance of vouchers is similar to pre-deposit and not supply of goods or services. Hence, vouchers are neither goods nor services and therefore cannot be taxed.



Hinesh R. Doshi & Co. LLP
Chartered Accountants

Palai Plaza, 3rd floor,
9, Kohinoor Road,
Opp. Hotel Pritam,
Dadar (East), Mumbai-400 014

Contact us:
Tel:- +91-22-66008100/8111
E-mail: info@hineshdoshi.com
Website: www.hineshrdoshicollp.com