

August 2022



# Communiqué

## Indirect Tax

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# NOTIFICATIONS & UPDATES

## CBIC reduces e-Invoicing limit 10 cr from existing limit of 20 cr w.e.f. Oct 01, 2022

The CBIC issued Notification No. 17/2022–Central Tax dated August 01, 2022 to amend Notification No. 13/2020 – Central Tax, dated March 21, 2020 to decrease the e-Invoicing aggregate turnover limit from 20 crore to 10 crore w.e.f. October 01, 2022.

**Source: Notification No. 17/2022 dt. August 01, 2022**



## CBIC issued an Advisory for AEM for delayed Bill of Entry under Faceless Assessment

The CBIC has issued an Advisory for Anonymised Escalation Mechanism ("AEM") for delayed Bill of Entry under Faceless Assessment. The CBIC has endeavored to provide an Anonymized Escalation Mechanism for ICEGATE registered users where they submit their grievance for delay in Bill of Entry clearance under faceless assessment. The delay in clearance would subsequently be escalated to the concerned Faceless Assessment Officers. The Anonymised Escalation facility also enables users to track the status of grievances submitted by them till the eventual resolution. Please note that grievance can be logged for delay in Bill of Entry clearance if the below criteria's are met:

- There should be a minimum 24 hours gap after filing of BE for the registration of grievance request
- Grievance can be logged for Bill of Entries in which IGM number and date has been mentioned.

The following step wise guide is to be followed for logging a grievance and tracking a previously logged grievance through AEM available post login on ICEGATE.

**Source: GSTN Advisory dated August 02, 2022**



## GSTN issued Advisory on Single click Nil filing of GSTR-1

The GSTN has issued an Advisory dated August 02, 2022 on Single click Nil filing of GSTR-1 to improve the user experience and performance of GSTR-1/IFF filing.

Eligibility to file NIL GSTR-1: Taxpayers may file NIL GSTR-1 if they have:

- No Outward Supplies (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the form is being filed for, or
- No Amendments to be made to any of the supplies declared in an earlier form,
- No Credit or Debit Notes to be declared / amended,
- No details of advances received for services is to be declared or adjusted

the tiles/tables shall be hidden. • Nil filing of GSTR-1 will not be allowed in case there is already saved records in GSTR-1. The taxpayers are advised to delete already saved records or reset GSTR-1 data by clicking RESET button available on GSTR1 dashboard before filing NIL GSTR-1. File Statement: To file Nil GSTR-1, taxpayer need to click File Statement button, which shall be available at the bottom of the GSTR-1 dashboard page. On clicking of 'File Statement' button, taxpayers will be navigated to the filing page to file GSTR-1/IFF using DSC/EVC.

**Source: GSTN Advisory dated August 02, 2022**



# JUDGEMENTS AND ADVANCE RULINGS

## **Actions taken by the department during enquiry need not necessarily be termed as harassment**

Issue : Whether the actions taken by the Respondent during the enquiry can be considered as harassment?

The Hon'ble Madras High Court in [Crl. O.P. No.7736 of 2022 dated June 6, 2022] directed the Petitioner to cooperate with the Respondent for enquiry. Stated that, the term harassment is so subjective which cannot be encapsulated in objective criterion. Held that, the Respondent shall issue notice for the appearance of the Petitioner for enquiry within two weeks and after enquiring the Petitioner, the Respondent may either register a complaint, if any cognizable offence is made out or close the complaint..

**Source: The Hon'ble Madras High Court in the matter of M/s Sridhar v the Superintendent of GST [Crl. O.P. No.7736 of 2022 dated June 6, 2022]**



## **SC directs GST Council to issue advisory to States to implement DIN system**

Issue : Whether implementation of electronic DIN necessary to facilitate communication between the State Tax Authorities/other officials and the taxpayers?

The Hon'ble Supreme Court in Writ Petition (Civil) No. 320 of 2022 dated July 18, 2022 observed that the GST Council is empowered to make recommendations to the States on any matter relating to GST. The GST Council can also issue advisories to the respective States for implementation of the DIN system, which shall be in the larger public interest and which may bring in transparency and accountability in the indirect tax administration. Opined that, implementing the system for electronic generation of a DIN for all communications sent by the State Tax Officers to taxpayers and other concerned persons would be in the larger public interest and enhance good governance. It will bring in transparency and accountability in the indirect tax administration, which are so vital to efficient governance. Directed the GST Council to issue advisory/instructions/recommendations to the respective States regarding implementation of the system of electronic DIN.

**Source: The Hon'ble Supreme Court in Pradeep Goyal v. Union of India & Ors. [Writ Petition (Civil) No. 320 of 2022 dated July 18, 2022]**



# JUDGEMENTS AND ADVANCE RULINGS

## **Order for non-granting GST registration must be a speaking order**

Issue : Whether the impugned order for rejection of registration application was cryptic and non-speaking?

The Hon'ble Madras High Court in [W.P. No. 13272 and WMP. Nos. 12569 & 12571 dated June 16, 2022] held that the stated order is non-speaking, arbitrary and evidently has not taken into account the explanation furnished by the Petitioner. Stated that, the word 'may' only refer to the discretion to reject and not to blatantly violate the principles of natural justice. Noted that, if the assessing authority is inclined to reject the application, he must have assigned the reasons for such objection and adhere to proper procedure, including due process. Held that, the impugned order is set aside and the Petitioner be heard on the objection raised and the application for registration shall be granted.

**Source: The Hon'ble Madras High Court in the matter of M/s B.C. Mohan Kumar v Superintendent of Central Goods & Service Tax [W.P. No. 13272 and WMP. Nos. 12569 & 12571 dated June 16, 2022]**



## **Refund allowed of IGST paid by assessee on ocean freight charges**

Issue : Whether the Petitioner is eligible for the refund of IGST on amount of ocean freight?

The Hon'ble High Court, Gujarat in Special Civil Application No. 11540 of 2021 dated July 07, 2022 has opined that, the present application requires consideration and hence, the same is allowed in terms of prayers. The Respondent is directed to grant refund of the amount of IGST already paid by the Petitioner pursuant to the Notification No.10/2017-IGST(Rate) dated June 28, 2017 along with statutory rate of interest on such refund within a period of four weeks from the date of submission of necessary documents by the Petitioner. Relied upon the decision of the Hon'ble Supreme Court in the Mohit Minerals Case wherein, the aforesaid Notifications have already been declared as ultra vires, present petition deserves to be allowed. Held that, the petition is allowed, and it is directed that if IGST amount is collected, the same shall be refunded within six weeks along with statutory rate of interest.

**Source: M/S Louis Dreyfus Company India Private Limited v. Union of India [SPECIAL CIVIL APPLICATION NO. 11540 of 2021 dated July 07, 2022]**



# JUDGEMENTS AND ADVANCE RULINGS



## Rajasthan HC granted interim protection against arrest

Issue : What will be the consequences for not appearing before the concerned authority in response to the summon under Section 70 of the CGST Act?

The Hon'ble High Court, Rajasthan in the matter of Anil Kumar Arora v Union of India [Criminal Misc. Bail Application No. 5830/2022 dated July 25, 2022] Directed, the Petitioner to join the enquiry and make himself available before the competent authority on the date given by the authority concerned and respond to the summon issued under Section 70 of the CGST Act. Held that, the Petitioner shall not be arrested and granted interim protection against the arrest.

**Source: The Hon'ble High Court, Rajasthan in the matter of Anil Kumar Arora v Union of India [Criminal Misc. Bail Application No. 5830/2022 dated July 25, 2022]**



## Bail granted to an Applicant involved in fraudulent ITC

Issue : Whether bail application of the accused against the complaint by the Respondent regarding offences committed under Section 132 (1)(b) of the CGST Act should be accepted?

The Hon'ble High Court Allahabad in [Criminal Misc. Bail Application No. – 21848 of 2022 dated July 29, 2022] relied upon the judgement of Hon'ble Supreme Court in case of [Sanjay Chandra v CBI, [2012 1 SCC 40] dated November 23, 2012] and remarks that, “seriousness of the offences alone is not conclusive of the Applicant’s entitlement to bail” and taking into consideration the course of investigation, the trial will take considerable time and , if the bail is denied then the judicial custody can be prolonged beyond the statutory period of punishment which is five years. Held, in favour of the Applicant after taking into consideration that – (i) Applicant has no prior criminal history of any economic offence or otherwise against him, (ii) the trial will take considerable time, (iii) Applicant’s argument, evidence on record regarding Applicant’s complicity and larger mandate of the Article 21 of the Indian Constitution. Accordingly, Court allows the bail application, subject to furnishing a personal bond, two sureties in the like amount to the satisfaction of the Court and a bank guarantee of Rs. 50 lacs.

**Source: Paras Jain v Union of India [Criminal Misc. Bail Application No. – 21848 of 2022 dated July 29, 2022]**



# JUDGEMENTS AND ADVANCE RULINGS

## Provisionally attachment cannot extend after One Year: Delhi HC

Issue : Whether the provisional attachment after the prescribed period under Section 83 of the CGST Act be reviewed or extended?

The Hon'ble High Court, Delhi in W.P.(C) 10389/2022 & CM No.29962/2022 dated July 29, 2022 has held that on a plain reading of Section 83 of the CGST Act, the attachment order cannot continue beyond one year. Held that, accordingly, the Respondent is directed to lift the attachment and convey the information in this behalf, to the concerned bank, within three days of the receipt of a copy of the order passed today. Accordingly, the prayer made by the Petitioner are allowed.

**Source: M/s SH. NITIN SINGHANIA v. COMMISSIONER OF CENTRAL TAX GST, DELHI (EAST)[W.P.(C) 10389/2022 & CM No.29962/2022 dated July 29, 2022]**



## SC's suo moto extension of limitation period order is applicable even for condonation period

Issue :

- Whether the Petitioner is covered by the orders and directions issued by the Supreme Court in Cognizance for Extension of Limitation [Suo Motu Writ Petition No.3/2020 dated March 23, 2022], to which, reference has been made hereinabove?
- Whether the order, canceling GST registration need to bear the signature of the concerned authority?

The Hon'ble High Court, New Delhi [W.P.(C) 4712/2022 dated July 21, 2022] has held that the period of limitation prescribed for filing the appeal under Section 107 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") is three months, which is amenable to extension by the period of one month by the Commissioner on sufficient cause being shown. The extension of limitation applied even to the condonable period, and not just to the prescribed period of limitation under Section 107 of the CGST Act. Therefore, clearly, the Impugned OIA is contrary to the directions issued by the Supreme Court, and therefore, deserves to be set aside. Stated that, the Respondents should have appended digital signatures on the SCN and the above-mentioned order, as it has grave implications for the assessee. Held that, the Impugned OIA is set aside.

**Source: Railsys Engineers Private Limited & Anr v. The Additional Commissioner of Central Goods and Services Tax [W.P.(C) 4712/2022 dated July 21, 2022]**



# JUDGEMENTS AND ADVANCE RULINGS



## **ITC denied if buyer having knowledge of investigation going on against his supplier**

Issue : Whether the Petitioner was right in availing credit when he was having the knowledge that the transactions with its supplier were under investigation?

The Hon'ble High Court of Madhya Pradesh in Writ Petition No.27676 of 2019 dated May 12, 2022 has held that the Petitioner did not file any reply to the SCN but has made an attempt to demonstrate that he sought documents from the Respondent to have some clarity on the issue, but those documents were not supplied to the Petitioner and hence for want of those documents, the Petitioner could not file reply. Noted that, before passing the Impugned order, the Petitioner had submitted his reply in which, the Petitioner itself had disclosed the transaction with regard to the Supplier and along with the reply, the Petitioner had also annexed the relevant documents pertaining to transactions i.e. copy of bill, e-way bill. The Petitioner was well aware about the transaction for which the notice was issued to it. Thus, apparently, the Petitioner has made futile attempt to lay foundation by raising a ground that he was not informed regarding the transactions. Opined that the petition filed by the Petitioner is grossly misconceived as the grounds are ill founded. The Petitioner was in the knowledge that the transactions with supplier were under scanner. Held that, there is no substance in the present writ petition and accordingly the same stands dismissed with cost of Rs.2000/- in favour of the Respondent.

**Source: M/s Dhara Enterprises v. Appellate Authority & Joint Commissioner [Writ Petition No.27676 of 2019 dated May 12, 2022]**





## **Recording statement of accused is necessary pre-condition, before initiating proceedings for evasion of custom duty**

Issue : Whether issuance of summons by the Magistrate without recording the statement of accused is tenable in law?

The Hon'ble Madras High Court in CrI.O.P.No.14526 of 2020 and CrI.M.P.No.5548 of 2020 dated July 20, 2022 held that, the Magistrate, as per Section 200 of the Cr.P.C., can either take cognizance and examine the Appellant and such other witnesses, who are present, or can opt for the option of conducting an enquiry by postponing the issue of process under Section 202 of Cr.P.C. Therefore, either he can issue process or dismiss the complaint under Section 203 of Cr.P.C. Further held that, the Magistrate cannot take cognizance as against the Petitioner before recording their statements. Quashed the proceedings of the Magistrate, Nagapattinam and granted liberty to the Petitioner to file a petition under Section 245(2) of Cr.P.C., in the manner known to law.

**Source: *J.Ananad and K.Sivamani v. The Assistant Commissioner of Customs, Customs Division, Nagapattinam [CrI.O.P.No.14526 of 2020 and CrI.M.P.No.5548 of 2020 dated July 20, 2022]***



# GST REVENUE



## GST REVENUE COLLECTION

The gross GST revenue collected in the month of August 2022 is ₹1,43,612 crore of which CGST is ₹24,710 crore, SGST is ₹ 30,951 crore, IGST is ₹77,782 crore (including ₹42,067 crore collected on import of goods) and cess is ₹ 10,168 crores (including ₹1,018 crore collected on import of goods).

The government has settled ₹29,524 crore to CGST and ₹25,119 crore to SGST from IGST. The total revenue of Centre and the States in the month of August 2022 after regular settlement is ₹54,234 crore for CGST and ₹56,070 crore for the SGST.

*Source: Press Release dt. September 01, 2022*



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