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Notifications and updates from CBIC regarding various issues of GST

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### GSTN announces Launch of E-Way Bill 2 Portal by NIC on June 1, 2024

The GSTN issued an **Advisory No. 499 dated May 28, 2024** on launch of E-Way Bill 2 Portal from June 01, 2024.

GSTN is pleased to inform that NIC is releasing the E-Way Bill 2 Portal (<https://ewaybill2.gst.gov.in>) on 1st June 2024. This portal ensures high availability and runs in parallel to the e-way Bill main portal (<https://ewaybill.gst.gov.in>). The e-way bill 2 portal synchronises the e-way bill details with main portal within a few seconds. The highlights of the portal are as follows:

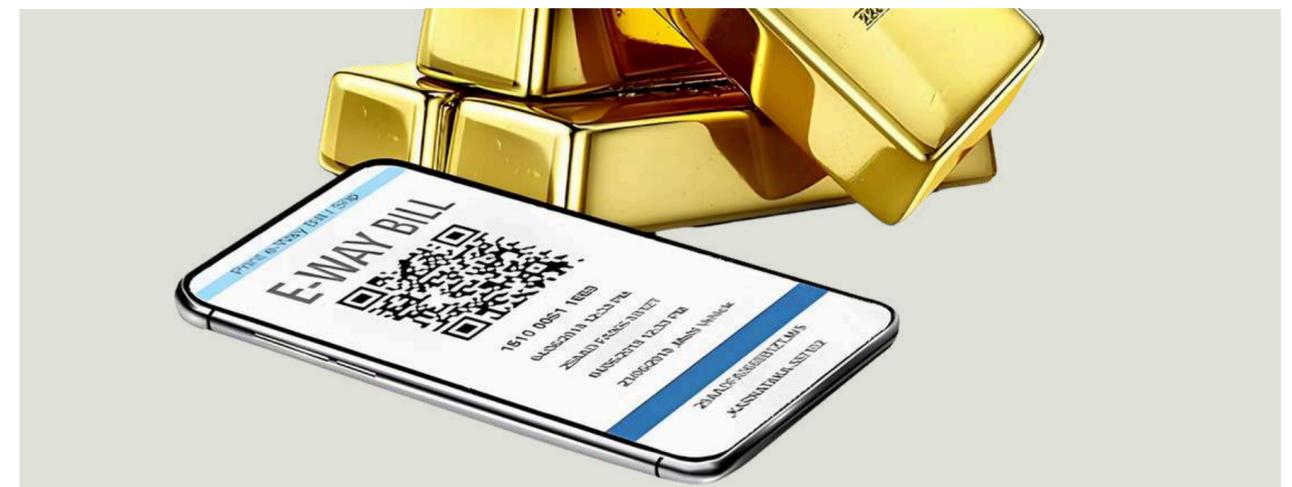
- Presently, E-Way Bill 2 Portal provides the critical services of E-Way Bill system, and gradually it will be extended with other services of e-way bill system.
- E-Way Bills can be generated and updated on the E-Way Bill 2 Portal independently.
- E-Way Bill 2 portal provides the web and API modes of operations for e-way bill services.
- The taxpayers and logistic operators can use the E-Way Bill 2 portal with the login credentials of the main portal.
- The taxpayers and logistic operators can use the E-Way Bill 2 portal during technical glitches in e-way bill main portal or any other exigencies.

- The Criss-Cross operations of printing and updating of Part-B of E-Way Bills can be carried out on these portals. That is, updating of Part-B of the E-Way bills of portal 1 can be done at portal 2 and vice versa.
- In case E-Way Bill main portal is non-operational because of technical reasons, the Part-B can be updated to the E-Way Bills, generated at Portal 1, at portal 2 and carry both the E-way Bill slips.
- For further details, please visit the e-way bill portals.

**Source: GST News and Updates**

### Important Update: GSTN Introduces Option to Choose Personal Hearing in GST DRC-01 Responses

The GSTN has enabled a new feature allowing taxpayers to select 'Yes' or 'No' for a personal hearing while replying to GST DRC-01 on the GST Portal. Previously, the portal automatically selected the 'No' option for a personal hearing in GST DRC-01.





### Writ Petition against Assessment Order not maintainable when remedy of appeal not availed during the period of limitation

The Hon'ble Rajasthan High Court, in the case of **M/s. Thekedar Nand Lal Sharma v. State of Rajasthan and Ors. [D.B. Civil Writ Petition No. 1437/2024 dated April 30, 2024]**, dismissed the writ petition and held that a writ petition against an Assessment Order is not maintainable if the remedy of appeal was not availed within the prescribed period of limitation.

#### Issue

Whether Writ Petition against Assessment Order not maintainable when remedy of appeal not availed during the period of limitation?

#### Held

The Hon'ble Rajasthan High Court in **D.B. Civil Writ Petition No. 1437/2024** held as under:

- Noted that, the Petitioner did not file the appeal and allowed the Impugned Order passed during the proceeding to become final and thereafter approached the Hon'ble High Court by way of filing writ petition against the imposition of tax, interest and penalty.
- Further Noted that, The Petitioner deliberately chose not to file the appeal and avail the remedy of appeal prescribed under Section 107 of the CGST Act but waited for the prescribed period of limitation for filing of appeal to expire.

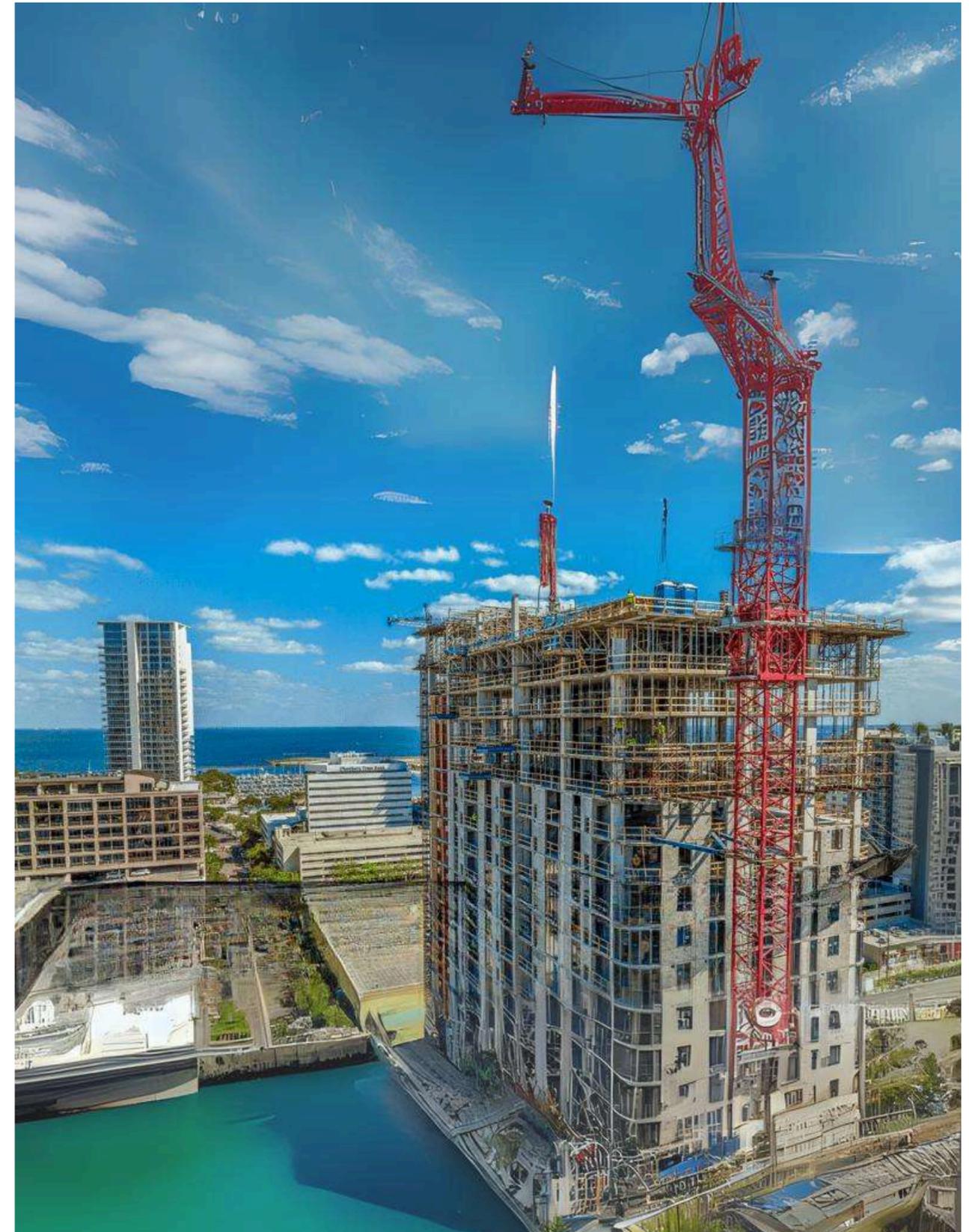


## Judgements

- Relying upon the judgment of the Hon'ble Supreme Court in the case of **Assistant Commissioner (CT) LTU, Kakinada & Ors. vs. Glaxo Smith Kline Consumer Health Care Limited [Civil Appeal No. 2413 of 2020 dated May 6, 2020]** wherein it was held that, writ petition cannot be filed for granting of relief against the assessment order passed when the appeal could not be filed within the prescribed period, therefore, being barred by limitation., the Hon'ble High Court opined that the writ petition is not maintainable.
- Held that, the writ petition is dismissed.

### **ITC is not available for the construction of the immovable property for renting it out for commercial purposes**

The Tamil Nadu Authority for Advance Rulings (AAR), in the matter of **Suswani Foundations (P.) Ltd., In re [Advance Ruling No. 123/AAR/2023 dated December 19, 2023]**, held that, according to Section 17(5)(d) of the Central Goods and Services Tax Act, 2017 ("the CGST Act"), no Input Tax Credit ("ITC") is available for any goods or services received by the assessee for the construction of immovable property on its own account, even if the inputs and input services are used in the course or furtherance of business.





### Issue

Whether ITC is available on the construction of the immovable property for renting it out for commercial purposes?

### Held

The Tamil Nadu AAR in **Advance Ruling No. 123/AAR/2023** held as under:

- Observed that, Section 17(5) (d) of the CGST Act provides that no ITC is available in respect of any goods or services received by a taxable person for the construction of an immovable property on his own account even if such inputs and input services are used in the course and furtherance of business. In the instant case, the Applicant had built the go down for which he had received various inputs and input services. The Applicant was proposing to rent out to large companies for storing their stock for future sale i.e. for the furtherance of their business. Therefore, as per Section 17(5) (d), no ITC is available on any goods or services received by them for such construction and the same cannot be claimed.
- Held that, the input tax paid on the goods or services received for construction of an immovable property 'on one's own account' is unavailable. The power to restrict the flow of credit exists under Section 16(1) of the CGST Act, shows the legislative intent that the ITC may not always be allowed partially or fully. As the suitability and requirement of

## Judgements

- taxpayers varies from person to person, legislation, cannot be amended accordingly. Therefore, it is mandatory for the taxpayers to adhere to the restrictions prescribed in the law.

### SC issues notice against HC judgment imposing GST on transfer of development rights to real state developers by Joint Development Agreement

The Hon'ble Supreme Court heard and issued notice in the case of **Prahitha Constructions Pvt. Ltd. v. Union of India and Others [SLP (C) No. 11079/2024]** on May 13, 2024, wherein the Hon'ble Telangana High Court in the case of **Prahitha Construction v. Union of India and Others [Writ Petition No. 5493 of 2020 dated February 9, 2024]** held that, the transfer of the development rights to real estate developers by way of Joint Development Agreement with the land owners, would fall within the purview of taxable service under GST.

However, the Hon'ble Supreme Court stated that the Impugned Judgement rendered by the Hon'ble High Court is not stayed, and therefore the Petitioner is required to pay the taxes.

### The onus is on the Assessee to prove the movement of goods and services

The Hon'ble Calcutta High Court in the case of **Roshan Sharma v. Assistant Commissioner of Revenue, State Tax, West Bengal & Ors. (M.A.T. 854 of**

**2024 dated May 07, 2024)** set aside the Adjudication Order affirming tax demand, interest, and penalty proposed in the Show Cause Notice. The matter was remanded back because the Assessee had not been given an effective opportunity to rebut allegations, which had been made against the supplier and transporter from whom the statement was obtained.



## Judgements

The matter was remanded back because the Assessee had not been given an effective opportunity to rebut allegations, which had been made against the supplier and transporter from whom the statement was obtained.

### Held

The Hon'ble Calcutta High Court in **M.A.T. 854 of 2024** held as under:

- Directed that, the Adjudicating Authority to furnish the copies of the statements obtained from the suppliers and transporters to the Appellant within a week. The adjudication shall be completed as expeditiously as possible preferably within a period of 60 days. Further, the Appellant is entitled to submit his further explanation along with the necessary documents. If the Appellant requests for cross-examination of those persons, the same should be permitted. Thereafter, the Adjudicating Authority shall pass fresh orders on merits and in accordance with law.
- Noted that, there was a negative balance in the credit ledger. Therefore, as on date, the blocking of such ledger will not in any manner be prejudiced against the Appellant. However, it was made clear that in case funds flow into the ledger, the blocking of the ledger shall be restricted to a sum of INR.2,82,32,394/- only.
- Held that, the Appellant is bound to prove by proper evidence to establish the movement of goods and in the present case, the Appellant had no opportunity to cross-examine the Suppliers and transporters.

Further, the statements recorded from them were not furnished to the Appellant. Hence, the case was remanded to the Adjudicating Authority for fresh consideration. The appeal and the writ petition including connected applications were allowed. The Impugned Order was set aside.

### Interest and penalty not leviable when there is no fault of Assessee in depositing GST

The Hon'ble Allahabad High Court, in the case of **Bhole Baba Milk Food Industries Limited v. Union of India [Writ Tax No. 1431 of 2023 dated April 16, 2024]**, allowed the writ petition and held that the imposition of fees and interest would arise only if the assessee fails to file the return and/or pay the tax due within the prescribed period.

### Held

The Hon'ble Allahabad High Court in the case of Writ Tax No. **1431 of 2023** held as under:

- Noted that, the Petitioner has initiated the payment of tax within the prescribed time period in the manner prescribed for which the amount is debited from the bank account. However, the Revenue Department ("**the Respondent**") states that the amount has been received at later stage.
- Opined that, the levy of fee and interest would arise only in case where the failure is on part of the assessee to file return and/or payment of

tax due within the prescribed period of time.

- Held that, the writ petition is disposed of directing the Respondent to adjust the amount of interest and penalty against the tax liability

### **CBIC Exempts Import Duty on Desi Chana till 2025, Imposes 40% Export Duty on Onions, Extends Yellow Peas Exemption Condition**

The CBIC vide **Notification No. 24/2024 - Customs dated May 03, 2024** amends the specified customs tariff notifications to exempt applicable import duty on imports of desi chana (HS 0713 20 20) up to March 31, 2025; to impose export duty of 40% on exports of Onions (HS 0703 10); to extend the specified condition of exemption to imports of Yellow Peas (HS 0713 10 10) to bill of lading issued on or before October 31, 2024 effective from May 04, 2024.

**Source: Customs Notification**



# GST Revenue

## GST Revenue

The gross Goods and Services Tax (GST) revenue for the month of May 2024 stood at ₹1.73 lakh crore. This represents a 10% year-on-year growth, driven by a strong increase in domestic transactions (up 15.3%) and slowing of imports (down 4.3%). After accounting for refunds, the net GST revenue for May 2024 stands at ₹1.44 lakh crore, reflecting a growth of 6.9% compared to the same period last year.

GST  
Goods and Services  
Tax



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**For any further assistance contact our team at [kmt@vkalra.com](mailto:kmt@vkalra.com)**

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