

Indirect Tax June 2023



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CBIC issues guidelines for processing of applications for GST registrations

CBIC vide Instruction No- 03/2023 of Central Tax rate dated June, 14 2023, has issued guidelines for processing of applications for GST registrations

- Instances have come to notice regarding unscrupulous elements obtaining fake/ bogus registration under GST and defrauding the Government exchequer. Such fake/ non-genuine registrations are being used to fraudulently pass on input tax credit to unscrupulous recipients by issuing invoices without any underlying supply of goods or services or both. This menace of fake registrations and issuance of bogus invoices for passing of fake ITC has become a serious problem, wherein fraudulent people engage in dubious and complex transactions, causing revenue loss to the government.
- Various modus operandi of obtaining such fake registrations have been detected by Central and State Tax administrations. In some cases, identities of other persons like PAN, Aadhaar, etc. have been misused without their knowledge to obtain GST registration. Forged documents, such as forged electricity bills, property tax receipts, rent agreements, etc. are also being used as proof of principal place of business to obtain GST registration. In some cases, forged identities have been created by using same photo of a person on different Aadhaar cards under different names. In one of the cases detected recently, it has been found that a few fraudsters have obtained fake GST registrations on the basis of PAN and Aadhaar number of persons from economically weaker sections by fraudulently modifying the phone number on the Aadhaar cards of these persons by taking these persons to the

Aadhaar Seva Kendra by giving a nominal cash amount under guise of a government scheme and getting their Aadhaar Cards linked to dummy mobile numbers by using their thumb impression.

- To address this problem of fake registration and fake input tax credit, Instruction No. 01/2023-GST dated May, 05 2023 has been issued for concerted and coordinated action on a mission mode by Central and State tax authorities in the form of a Special All-India Drive against fake registrations.
- In this context, it is further felt that verification of applications for registration by the proper officers is one of the most crucial steps in the direction of preventing the menace of fake or bogus registrations. While numerous initiatives have been/are being undertaken on the policy and systems level, it is pertinent to strengthen the process of scrutiny and verification of such applications for registration at the end of tax officers.

Source: Instruction- 03/2023 dated June 14, 2023



Hon'ble Jharkhand High Court direct to refund the claim with interest of 6%

Facts

The petitioner sought a refund of unutilized input tax credit of compensation cess due to exports, and the refund was approved. However, the payment advice was not issued, citing technical difficulties. After a lapse of 30 months, the petitioner was informed that an order rejecting the refund had been passed, but the copy of the order was not provided to the petitioner. In an earlier round of proceedings, the High Court had directed the department to make a decision, and the petitioner was instructed to debit the amount from the electronic credit ledger. In the current round of proceedings, the department acknowledged that the disputed order was not available in their records but insisted that the petitioner file a fresh refund claim.

Ruling

The department failed to present the disputed order, and even if such an order was issued, it was done so without granting the petitioner an opportunity to be heard. If directed to file a refund claim again, the petitioner would suffer a loss of interest. The rejection of the refund application was done unlawfully, contrary to the provisions of the statute, by the Authority. As a result, the petitioner was entitled to interest under Section 54 of the CGST Act, at a rate of 6 percent per annum, from the expiry of 60 days from the receipt of the refund application until the date of payment of the refundable amount. The respondent was instructed to process the refund claim, along with the applicable interest, within a span of three weeks.

Source: Judgement dated June 12, 2023 in case of Steel Authority of India Ltd. vs. State of Jharkhand W.P. (T) NO. 3983 of 2022



Hon'ble Calcutta High Court says the order rejecting the petitioner's claim for input tax credit should be overturned

Facts

The petitioner's credit claim for input tax against a supply made by a supplier was denied by the revenue authority. The reason for the rejection was that the supplier, from whom the petitioner claimed to have purchased goods, was proven to be fake and non-existent. Additionally, the bank accounts associated with the said supplier were opened using forged documents. The petitioner failed to verify the authenticity and identity of the supplier.

Ruling

At the time of the transaction, the name of the supplier, registered as a taxable person, was already available in government records. Furthermore, the petitioner had made payments for the purchased articles, including the applicable tax, through a bank transaction rather than in cash. Without conducting proper verification, it cannot be concluded that the petitioner failed to comply with any statutory obligations before entering into the transactions. Therefore, the order rejecting the petitioner's claim for input tax credit (ITC) should be overturned, and the revenue authority is directed to reconsider the petitioner's concerns by duly considering the supporting documents that the petitioner intends to rely upon in support of their claim.

Source: Judgement dated June 12, 2023 in case of Gargo Traders vs. Joint Commissioner, Commercial Taxes (State Tax) W.P.A. 1009 of 2022

Hon'ble Gujarat High court says GST authorities have power to conduct search and seizure in SEZ units

Facts

The main point of dispute raised by the petitioners is that their business premises, located within a Special Economic Zone, should be considered as foreign territory. Consequently, the petitioners argue that the State GST authorities do not have the jurisdiction to conduct any search proceedings at their premises.

Ruling

The provisions of the IGST Act, 2017 apply to the entirety of India, and it is not in dispute that the petitioner is registered under the said act. If the argument put forth by the petitioners, asserting that they are SEZ units and therefore exempt from investigation or inspection, is accepted, it would undermine the purpose of the Act. Furthermore, there are no apparent inconsistencies between the SEZ Act 2005 and the GST Act 2017. It is an undisputed fact that the Development Commissioner of the SEZ was duly informed prior to the initiation of search and seizure proceedings under Section 67 of the CGST Act. Given these circumstances, the submission made by the petitioners does not seem worthy of acceptance.

Source: Judgement dated June, 06 2023 in case of RHC Global Exports (P.) Ltd. vs. Union of India R/Special civil application nos. 5978 to 5980 of 2023

Hon'ble Madras High Court says upon the interception and detention of the consignment of goods by the authorities on the basis that the supplier had incorrectly passed on Input Tax Credit, the assessee filed a statutory appeal before the Appellate Authority, complying with the requirement of paying 25% of the disputed penalty. The release of the goods was contingent upon the provision of a Bank Guarantee or payment in cash amounting to 200% of the tax

Facts

After the assessee transported a consignment of goods, it was intercepted and detained by the authorities. An order of detention in Form GST MOV-06 was issued. Although the consignment was accompanied by an e-Way Bill, the goods were detained by the officer on the grounds that the supplier, from whom the assessee purchased the goods, had wrongly passed on Input Tax Credit. The assessee argued that the movement of goods complied with the provisions of the GST Act and Rules, and a statutory appeal under section 107 was filed before the Appellate Authority after paying 25% of the disputed penalty. The assessee further contended that once a pre-deposit of the required amount was made under section 107(6), the officer should have released the goods.

Ruling

Once the order was stayed, the goods could be released, subject to any other safeguards imposed by the Appellate Authorities under the respective Acts. The officer who detained the goods became functus officio, meaning that their authority ended, once the mandatory pre-deposit was made, and the order had no legal force. Any further recovery proceedings would be dependent on the final outcome of the

appeal. Consequently, the assessee was instructed to deposit the maximum penalty of 200% of the tax, after adjusting the amount already deposited, or provide a Bank Guarantee as per section 129(c) of the Act. Upon furnishing a Bank Guarantee for the remaining penalty amount or making the payment in cash, the goods should be released.

Source: Judgement dated May,05 2023 in case of Haresh Kumar vs. Assistant Commissioner (ST) W.P.No. 14628 Of 2023



Hon'ble Kerala High Court says department was empowered to pass order

Facts

The Department Provisionally attached bank account due to fake purchase and ITC claimed based on the Fake documents.

Ruling

The documents submitted by the department revealed that the petitioner had engaged in fraudulent activities, warranting the invocation of Section 83 of the CGST Act, 2017, in order to safeguard government revenue. Although a statutory remedy was available under Rule 159(5) of the CGST Rules, 2017, which allowed for a request to be made to the Commissioner to lift the attachment, this remedy had not been pursued, as the writ petition was filed instead. Writ jurisdiction can only be invoked in exceptional circumstances when alternative remedies are not available. Given that the department was authorized to issue an order by virtue of the delegated powers under Sections 3 and 5 of the CGST Act, 2017, the writ petition was dismissed.

Source: Judgement dated June,09 2023 in case of S. R. Traders vs. Additional Director General WP(C) NO. 12519 of 2023

Hon'ble Guwahati High court direct to demand records to verify reason to believe existed or not

Facts

The petitioner challenged the legality and validity of the show cause notice, asserting that the correct turnover in GSTR-3B for the financial years 2017-18 and 2018-19 had been duly declared and that the tax on machinery rental income and royalty paid to the forest department had been duly paid. The petitioner argued that they were entitled to receive copies of the requested documents, whereas the department disputed this claim.

Ruling

The demand for GST was not solely based on the mining lease and/or royalty paid to the State Government, which was already under consideration by a Larger Bench of the Supreme Court. The demand also encompassed other claims. Prior to the issuance of the notice, this Court was inclined to review the records pertaining to the show cause notice in order to ascertain whether there were valid "reasons to believe" or if it was merely a pretense. The department was to be directed to present the records related to the show cause notice for the examination of this Court. However, the petitioner was not entitled to receive a copy of the same.

Source: Judgement dated June, 07 2023 in case of Marjit Basumatary vs. Union of India , W.P.(C) No. 2620 of 2023.

Hon'ble Gujarat High Court says Petition challenging order of Provisional attachment was not entertained

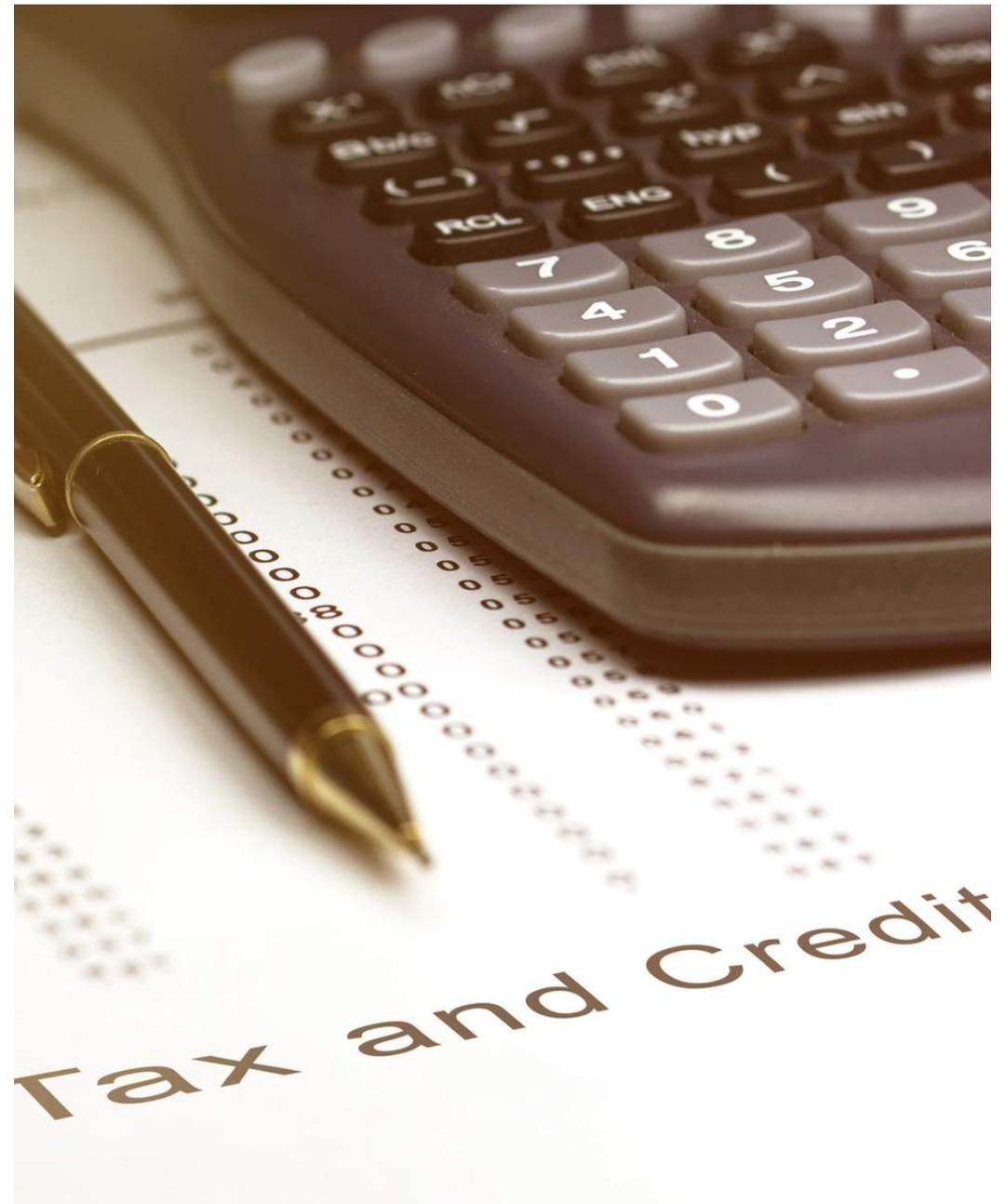
Facts

The assessee responded to the summons under Section 70 from the authorities, providing the necessary details pertaining to the claim of Input Tax Credit. Based on these replies, proceedings were initiated, and it was determined that there was a wrongful claim of input tax credit, resulting in a tax liability of a certain amount. To protect the interests of revenue, the bank accounts of the assessee were provisionally attached under Section 83. In response, an immediate writ petition was filed, contesting the order of provisional attachment on the grounds of a violation of the principles of natural justice.

Ruling

After thoroughly examining the materials and information submitted by the assessee, the authority arrived at a specific conclusion, satisfying itself that the action taken was necessary in the interest of revenue. Considering that the decision was made based on the received material and information, it cannot be deemed as either irrational or contrary to the law, especially since the proceedings had already been initiated. When weighing substantial justice against technical considerations, priority was given to substantial justice. Consequently, since the authority was acting in the interest of revenue and a show cause notice had already been issued, the petition challenging the order of attachment was not entertained.

Source: Judgement dated June,06 2023 in case of Royal Corporation vs. State of Gujarat, R/Special Civil Application No 13711 OF 2022



CBIC issues Circular to simplify regulatory framework for e-commerce exports of Jewellery through Courier mode

CBIC issued Circular No- 17/2023-Customs dated June, 15 2023 to simplify regulatory framework for e-commerce exports of Jewellery through Courier mode.

- The exporters who do not wish to re-import as permitted vide Notification No. 57/2022-Cus (N.T.) and make a declaration to this effect in the Courier Shipping Bill (CSB-V) at the time of export, will not be required to upload the following documents on the ECCS system as prescribed under Para 3(l)(v) of Circular No. 09/2022-Customs:

A few aspects of the FTP-HBP are highlighted below:

- Photos of the export item (not exceeding 2MB)
- Photos of the product package/outer covering (not exceeding 2 MB)
- Image of the product listing on the e-commerce platform.

Further, notification no. 43/2023-Customs (N.T.) dated 15.06.2023 has been issued for amending Form HA (CSB-V) to incorporate the aforesaid declaration by the exporter. Such a declaration will also relieve the exporter from filling out certain additional fields concerning item-level specifications of the jewellery in the Form HA. Necessary modification is being made in the Express Cargo Clearance System (ECCS) for incorporating these changes in Form HA.

Source: Circular No - 17/2023-Customs



CBIC issues exchange rates for import and export of goods

CBIC vide Notification-44/2023 of Customs dated June, 15 2023 issues exchange rates for import and export of goods. Rate chart is mentioned below:

Source: Notification No-44/2023 of Customs



Schedule-1

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	57.10	54.70
2.	Bahraini Dinar	224.90	211.50
3.	Canadian Dollar	62.65	60.55
4.	Chinese Yuan	11.60	11.30
5.	Danish Kroner	12.15	11.70
6.	EURO	90.50	87.30
7.	Hong Kong Dollar	10.70	10.30
8.	Kuwaiti Dinar	276.05	259.50
9.	New Zealand Dollar	52.10	49.75
10.	Norwegian Kroner	7.80	7.55
11.	Pound Sterling	105.65	102.15
12.	Qatari Riyal	23.30	21.85
13.	Saudi Arabian Riyal	22.30	21.25
14.	Singapore Dollar	62.15	60.15
15.	South African Rand	4.60	4.30
16.	Swedish Kroner	7.75	7.50
17.	Swiss Franc	92.80	89.30
18.	Turkish Lira	3.60	3.40
19.	UAE Dirham	23.10	21.70
20.	US Dollar	83.05	81.35

Schedule-2

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	59.20	57.35
2.	Korean Won	6.60	6.20



GST Revenue

The gross GST revenue collected in the month of June, 2023 is INR.1,61,497 crore of which CGST is INR.31,013 crore, SGST is INR.38,292 crore, IGST is INR.80,292 crore (including INR. 39,035 crores collected on import of goods) and cess is INR.11,900 crore (including INR. 1,028 crores collected on import of goods).

Source: pib.gov.in



GST

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