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GST LAW COMMUNIQUE

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Latest updates for the month of August 2024

Compliance Calendar for the month of September 2024

Due Date of Compliance	Compliance
10.09.2024	Monthly GSTR 7 for the month of August 2024 (TDS deductor)
	Monthly GSTR 8 for the month of August 2024 (TCS collector)
11.09.2024	Monthly GSTR 1 for the month of August 2024 (Regular Monthly Taxpayer)
13.09.2024	IFF for taxpayers under the QRMP scheme (August 2024)
13.09.2024	GSTR-5 for the month of August 2024 (Non-Resident Taxpayer)
13.09.2024	GSTR-6 for the month of August 2024 (Input Service Distributor)
20.09.2024	Monthly GSTR 3B for the month of August 2024 (Regular Monthly Taxpayer)
	Monthly GSTR 5A for the month of August 2024 (OIDAR service provider)
25.09.2024	PMT-06 Monthly tax payment for August-2024 under the QRMP Scheme

GST collections grow 10 per cent to Rs 1.75 lakh crore in August

Goods and Services Tax (GST) collections in August went up by 10 per cent from the same period last year to Rs 1,74,962 crore, according to official statement of government. This growth was observed across all categories: Central GST (CGST), State GST (SGST), Integrated GST (IGST), and cess. A year before, the gross GST revenue collected in the month of August, 2023 was Rs 1,59,069 crore.

For the month of July, the collections were totalled at Rs 182,075 crore. So far in 2024, the total GST collection has been 10.1 per cent higher at Rs 9.13 lakh crore, as against Rs 8.29 lakh crore mopped up in the corresponding period of 2023

GST Council News

The 54th Meeting of the GST Council will be held on 9th September, 2024 at New Delhi.

Incorporating

- 1] Important Notifications
- 2] Important Circulars/Clarifications
- 3] Important Case laws, AAR, AAAR
- 4] Compliance calendar for the month of August 24



A] Important Notifications (Rate)

No new rate Notifications are issued during the month

B] Important Notifications

A] Compulsory registration in the case of offices as ISD: An amendment was made in Section 2(61) and Section 20 of CGST Act, 2017 vide Sections 11 & 12 of The Finance Act, 2024 in order to make the registration of input service distributor (ISD) compulsory in cases where common services are received on behalf of a distinct person under Section 24 of the CGST Act, 2017. Further, the provision of making payments under RCM by the ISD was also incorporated. Said provisions are made applicable w.e.f. 01st April, 2025.

B] Penalty in the case of special procedure relating to registration of machines: A special procedure was notified vide Notification No 30/2023-Central Tax dt. 31st July, 2023 in the case of the manufacture of pan masala and tobacco products. Said procedure is rescinded vide Notification No. 03/2024 Central Tax dt. 05th January, 2024, and a new procedure is being notified in which registration of each machine is made compulsory. Section 122A was inserted in order to levy an additional penalty of Rs.1,00,000/- to be imposed on every machine that is not registered as per said procedure. Provision of seizure of said machine is also provided. Said provision are made applicable w.e.f. 01st October, 2024

[Notification No16/2024 Central Tax dt. 06th August 2024]

C] Important Circulars

No new circulars are issued during the month

D] Important Instructions

1] Reference to TRU in case of interpretational issues: An instruction is given that when auditors encounter issues where differing interpretations of the GST Act or Rules exist, particularly those linked to established trade practices, they should refer the matter to the relevant policy wing of the CBIC before finalizing their audit conclusions.

The instruction underscores the need for auditors to collaborate with the zonal Chief Commissioner and submit a detailed reference for guidance before concluding their audit, especially when litigation risks are high.

E] Important Case Laws

1] Silver Oak Villas LLP Vs. Asst. Co. (ST), Hyderabad- 2024(86) G.S.T.L.161- Telangana High Court-

Demand - Tax or ITC not involving frauds etc. - Unsigned order - Case of petitioner-assessee was that impugned show cause notice and order had not been signed by respondent authority either electronically, physically or as was otherwise required - Show cause notice as also order under Rule 26 of Central Goods and Services Tax Rules, 2017 were assailed - **HELD:** Show cause notice as also impugned order both were not sustainable and therefore, same were to be set aside/quashed [Section 73 read with Section 168A of Central Goods and Services Tax Act, 2017/Telangana Goods and Services Tax Act, 2017 - Rule 26 of Central Goods and Services Tax Rules, 2017/Telangana Goods and Services Tax Rules, 2017.

2] GMA Pinnacle Automotives Pvt.Ltd.Vs.State Tax Officer, Aluva- 2024(86) G.S.T.L.172- Kerala High Court-

Input tax credit - Denial of - Mismatch between GSTR 2A and GSTR 3B - Period July, 2017 to March 2018 - Petitioner-assessee's claim for input tax credit was rejected by Assessing Officer on ground of mismatch of ITC in GSTR-2A and GSTR-3B of supplier - Assessee vide instant petition submitted that when there was mismatch in returns, officer was required to ask assessee to produce certificate from concerned supplier to effect that supplies had actually been made by him, however even though assessee was not called upon, assessee sent an email to proper officer, but same was not considered while rejecting claim of assessee - **HELD :** Assessment order to extent that it denied ITC claim owing to alleged mismatch between GSTR 2A and GSTR 3B of supplier was to be set aside - Writ petition was to be disposed of directing that if assessee filed an application for rectification of assessment order to extent of denial of ITC claim along with documents in support of claim of ITC, same was to be considered by

respondent authority in accordance with law [Section 16 of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017.

3]Shiv Crackers Vs.Chief Com.of CGST & c.e.- 2024(86) G.S.T.L.220- Gujarat High Court-

Appeals to Appellate authority - Pre-deposit - Payment through Electronic Credit Ledger v. payment through Electronic Cash Ledger - Whether a sum equal to 10 per cent of amount of tax in dispute, required to be paid under sub-section (6) of Section 107 of CGST Act, could be paid by utilizing credit available in Electronic Credit Ledger - **HELD** : Considering ratio laid down by Bombay High Court in case of Oasis Realty [(2023) 3 Centax 86 (Bom.)] and CBIT&C Circular No. 172/04/2025-GST, dated 6th July 2022, payment of pre-deposit could be made by utilizing Electronic Credit Ledger (ECL) - Bombay High Court, having considered provisions of Act, held that amount of ITC available in Electronic Credit Ledger could be used towards payment of Integrated Tax, Central Tax, State Tax, or Union Territory Tax - Hence, petitioner could utilize amount available in Electronic Credit Ledger to pay 10 per cent of tax in dispute as prescribed under sub-section (6) of Section 107 of CGST Act - Impugned order-in-appeal was to be quashed and set aside - [Section 107, read with section 49, of Central Goods and Services Tax Act, 2017/Gujarat Goods and Services Tax Act, 2017.

4]Philips Cabon Bllllak LTD.Vs.State of Kerala- 2024(86) G.S.T.L.233-Kerala High Court-

Detention of goods and conveyance in transit - Place of supply of goods - Petitioner was a dealer under Kerala State GST Act, 2017 who had to transport a consignment of Carbon Black to MRF Limited being buyer situated in Arakonam, Tamil Nadu as per purchase order, but said buyer had instructed petitioner to deliver goods to job worker in Kannur in Kerala state itself - Consignment was intercepted and detention order was passed mentioning that place of delivery of goods being at Kannur in State of Kerala, CGST and SGST should have been charged in invoice but invoice was issued charging only IGST - **HELD** : As per construction Sections 7, 8 and 10 of IGST Act, 2017, for determination as to whether supply is inter-state supply or intra-state supply, it would depend on place of supply and not delivery of goods - As per Section 10(1)(b) of IGST Act, in case, where supply is made on direction of a third party, place of principal or third party shall be place of supply - In Instant case, delivery of goods was destined to Kannur, in Kerala State on instructions of buyer though invoice was issued in name of buyer situated in Tamil Nadu - Supply of goods in instant case was inter-state supply and not intra-state supply and same would attract tax under IGST Act; not CGST and SGST - Therefore, impugned detention orders were to be set aside [Section 129 of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017 - Section 10 read with Sections 7 and 8 of Integrated Goods and Services Tax Act, 2017.

5]Meera Glass Industries Vs. State of U.P.- 2024(86) G.S.T.L.275- Allahabad High Court-

Demand - Violation of natural justice - Petitioner-assessee had challenged an order, passed revenue concerning tax period of April, 2021 wherein they were not provided with a mandatory opportunity of 'personal hearing' as required under Section 75(4) of CGST Act, 2017 - HELD : Use of the word 'or' in Section 75(4) ibid was significant and indicated two distinct scenarios where opportunity of personal hearing must be provided; upon application by individual subject to penalty or tax imposition, or in event of contemplation of an adverse order - Thus, personal hearing was deemed a fundamental aspect of procedural fairness and natural justice, ensuring individuals have opportunity to present their case and respond to allegations directly to decision-maker - Therefore, impugned order was to be quashed and revenue was directed to afford assessee an opportunity of personal hearing and pass a reasoned order in accordance with law [Section 75 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017.

6] T.V.L.Lakshmi Tex Vs.Deput State Tax Officer-1,Erode - 2024(86) 334- Madras High Court-

Demand - Mismatch between GSTR-3B and GSTR-2B - Violation of natural justice - Assessee was a dealer of woven fabrics in cotton and readymade garments - Show cause notice was issued to assessee alleging that there was disparity between GSTR-3B and GSTR-2B returns - Assessee did not reply to said notice on ground that he was awaiting particulars from his supplier - However, impugned order was passed making entire tax liability with regard to disparity between GSTR-3B and GSTR-2B returns - **HELD** : Assessee, subsequent to issuance of order only, had explained that ITC was validly availed of by submitting documents in support thereof but it was negligent in not doing so upon receipt of intimation and show cause notice, Nonetheless, if explanation of assessee was valid, interest of justice

would be prejudiced unless assessee was provided an opportunity to explain alleged disparity in GSTR-3B and GSTR-2B - Impugned order was to be quashed subject to condition that assessee remits 10 per cent of disputed tax demand and thereafter Assessing Officer was directed to provide a reasonable opportunity to assessee and thereafter issue a fresh assessment orders [Section 75 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

7] Shanti Motors Vs.Union of India -2024(87) G.S.T.L.3-Hon.Supreme Court-

Input tax credit - Sub-section (4) of Section 16 - Constitutional validity - Passing common order for a number of cases, High Court in Gobinda Construction [2023 (77) G.S.T.L. 483 (Pat.) = (2023) 10 Centax 196 (Pat.) has held that sub-section (4) of section 16 of CGST/BGST Act is constitutionally valid and not violative of article 19(1)(g) and article 300A of Constitution of India - HELD : Notice was to be issued in SLP filed by assessee against impugned order [Section 16 of Central Goods and Services Tax Act, 2017/Bihar Goods and Services Tax Act, 2017.

8] M.Trade Links Vs. Union of India :- 2024(87) G.S.T.L.4 :-Kerala High Court - Input Tax Credit - Furnishing of returns - Extension of time limit - Only requirement to avail ITC is payment of tax by supplier - In initial years of GST regime, GSTR-2A was not available initially in financial years 2017-18 and 2018-19 - In order to resolve bona fide claims and mistakes, CBI&C Circular Nos. 183/15/2022-GST, dated 27-12-2022 and 193/05/2023-GST, dated 17-7-2023 was issued - These circulars cover period from introduction of GST till Section 16(2)(aa) of CGST Act, 2017 was introduced with effect from 1-1-2022 - ITC can be availed by recipient for bona fide scenarios listed in those circulars - Earlier, date for furnishing return under Section 39 ibid was 30th September - Legislature had effected amendment by Finance Act, 2022 and extended time for filing return for September to 30th November - Thus, if a person has furnished return for month of September till 30th November, his claim should also be considered and processed and should not be rejected if dealer did not furnish return or month of September on or before 20th October - This amendment being procedural has to be given retrospective effect - So far as challenge to constitutional validity of Sections 16(2)(c) and 16(4) ibid was concerned, same was to be rejected [Section 16 read with Sections 39, 41 and 49 of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017.

9]Renaatus Projects Pvt.Ltd.Vs.Stte Tax Officer- 2024(87) G.S.T.L.70- Madras High Court-

Demand - Natural justice - Turnover difference - Petitioner-assessee was called upon to show cause in respect of an aggregate tax proposal of Rs. 12.56 crore - However, confirmed tax proposal under impugned order was for a sum of Rs. 78.23 crore - Petitioner contended that impugned order travelled beyond scope of show cause notice - HELD : On perusal of impugned order, it was evident that total turnover as per profit and loss account and turnover as per annual return in GSTR 9 was added and tax was computed on same - Since tax proposal pertained to turnover difference, difference between turnover as per profit and loss account and turnover as per GSTR 9 should have been taken into consideration - Substantial liability was imposed on petitioner without taking into consideration documents on record such as GSTR 9C reconciliation statement - Therefore, impugned order was to be set aside subject to condition that petitioner remit a sum of Rs. 2.50 crore [Section 74 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

10] Savio Jewellery Vs.Com.of CGST, Jaipur-2024(87) G.S.T.L.140-Rajasthan High Court-

Place of supply of services - Supplier located outside India - Assessee dealing with jewellery had participated in exhibition outside India - Show cause notice was issued to assessee for non-payment of GST on exhibition services - Impugned order was passed imposing tax on exhibition services received by assessee in non-taxable territory from person located in non-taxable territory on RCM basis - HELD : As per Section 5(3) of IGST Act, Government may, by notification, specify categories of supply of goods or services or both, tax on which shall be paid on reverse charge basis by recipient of such goods or services or both - Notification No. 10/2017-I.T. (Rate), dated 28-6-2017 was issued in exercise of powers conferred under sub-section (3) of Section 5 of IGST Act, which was not under challenge - Sub-section (5) of Section 13 of IGST Act, includes places of supply of services - In instant case, supply of services had taken place outside India and as per above notification receiver of service i.e., assessee was person registered in taxable territory - Hence, services received outside India were taxable at hand of assessee, who was a registered person in taxable territory [Section 13 read with section 5 of Integrated Goods and Services Act, 2017.

11]TVL Jones Enterprises Vs.sst.om.(ST), Chennai- 2024(87) G.S.T.L.216- Madras High Court-

Annual return - Penalty for non-filing of - Period 2019-20 - Impugned order was passed against assessee imposing penalty for non-filing of annual return - Case of assessee was that requirement of filing annual return in Form GSTR 9 arises only if turnover in relevant financial year exceeds Rs. 2 crores - By pointing out that turnover of assessee did not exceed threshold limit during relevant period, assessee sought an opportunity to contest matter on merits assessee asserted that he was unaware of proceedings culminating in orders impugned herein because notices and orders were uploaded on GST portal, but not communicated to petitioner through any other mode - **HELD** : Tax proposal was confirmed because petitioner did not reply to show cause notice or participate in personal hearing - Impugned order was to be set aside - Fresh orders were to be issued after assessee reasonable opportunity of hearing [Section 44 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

12]Sun & Sand Industries Africa Pvt.Ltd.Vs. Sals Tax Officer, Avato-2024(87) G.S.T.L.391-Delhi High Court -

Demand - Cryptic Order - Opportunity of hearing - Show cause notice was issued to assessee proposing demand against assessee on ground of excess claim of ITC, under declaration of ineligible ITC, etc. - Assessee replied to said notice seeking additional time for furnishing detailed reply and an opportunity of personal hearing - Impugned order was passed confirming demand and imposing penalty on assessee observing that reply did not consist any explanation of show cause notice nor supported with any documents and, no one appeared for personal hearing even when as another opportunity to submit reply and personal hearing was given - However, assessee contended that impugned order did not take into consideration request submitted by assessee for extension of time - **HELD** : Adjournment is not a right - Section 75(5) of CGST Act, 2017 empowers proper officer to grant upto three adjournments, if sufficient cause is shown, however, it is not mandatory to grant three adjournments - It was noted that impugned order was a cryptic order - In view of prayer made by assessee for one opportunity to file reply, impugned order was to be set aside and assessee was to be permitted to file reply to show cause notice - Proper officer was to be directed to re-adjudicate show cause notice after giving opportunity of hearing to assessee [Section 75 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017.

13]Sri Krishna Textile Mills Vs. Asst. Com.Erode- 2024(87) G.S.T.L.397-Madras High Court-

Refund of ITC - Inverted tax structure - Turnover mismatch between GSTR returns - Assessee's application for refund of unutilised input tax credit due to inverted duty was rejected on ground that turnover did not match GSTR-1, GSTR-3B and GSTR-2A returns - Assessee submitted that invoices issued by supplier and invoices raised by assessee in relation to outward supply were duly submitted by it - Assessee further pointed out that respondent-authorities had not examined refund application in accordance with section 54 of CGST Act and rules framed thereunder and, particularly, mandates of CBI & C Circular No. 135/05/2020-GST, dated 31-3-2020 and, thus, matter required reconsideration - **HELD** : Respondent-authority should have examined application for refund in accordance with section 54 of GST Act and rules framed thereunder and Circular No. 135/05/2020-GST, which was not done - Hence, matter was to be readjudicated [Section 54 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

14] Jindal Trading Co. Vs. Union of India- 2024(87) G.S.T.L.462- Delhi High Court-

Input tax credit - Denial of - Mismatch between GSTR 3B and GSTR 2A/2B violation of natural justice - Show cause notice was issued to assessee whereby department had raised grounds under separate headings i.e., excess claim of ITC; scrutiny of ITC availed and ITC claimed from cancelled dealers, return defaulters and tax non payers - A detailed reply was furnished by assessee giving response under each of heads with supporting documents - Impugned order was passed creating demand and penalty against assessee - Proper officer in impugned order had opined that reply was a plain reply which was not supported with proper calculations/reconciliation and relevant documents - **HELD** : If proper officer was of view that any further details were required, same could have been specifically sought from assessee, however no such opportunity was given to assessee - Impugned order could not be sustained and was to be set aside - Matter was to be remitted for re-adjudication [Section 16 read with Section 73 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017.

15] Biswajit Kundu Vs. Superintendent of Central Tax, Shibpur- 2024(87) G.S.T.L.471- Calcutta High Court-

Input tax credit - Denial of - Non-supply of goods - Assessee challenged adjudication order denying input tax credit as registration of supplier had been cancelled retrospectively - Assessee claimed to have valid tax invoice and paid taxes - According to assessee adjudicating authority had not caused any verification of genuineness at supplier's end - **HELD** : Assessee had to prove movement of goods through documents to establish genuineness of transaction, and, then adjudicating authority could be directed to cause verification at supplier's end - However, since this aspect of matter was not properly agitated by assessee before authority, one more opportunity was to be granted to him to go before adjudicating authority to prove movement of goods - Accordingly, assessee was to be directed to treat order in original as a show cause notice and submit reply to same enclosing documents to prove movement of goods [Section 16 of Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017.

F] GST portal updates

1] Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration: A recent update on the GST registration process highlights important changes for taxpayers:

1. **Amendment to Rule 8 of CGST Rules, 2017:** Applicants can now be identified through Biometric-based Aadhaar Authentication and document verification.
2. **New Functionality:** This has been implemented in Jammu & Kashmir and West Bengal from 2nd August 2024 and in Dadra and Nagar Haveli, Daman and Diu, and Chandigarh from 24th August 2024.
3. **Registration Process:** Applicants will receive either a link for OTP-based Aadhaar authentication or a link to book an appointment at a GST Suvidha Kendra (GSK) for biometric authentication and document verification.
4. **Document Requirements:** For GSK visits, applicants must carry original documents, Aadhaar, PAN, and appointment confirmation.
5. **Timeline:** The appointment must be booked within the permissible period indicated in the email. ARN will be generated after completion of biometric and document verification.
6. **Availability:** The GSK appointment booking is available in Jammu & Kashmir and West Bengal.
7. **Operating Hours:** GSK hours will vary based on local guidelines.

2] Advisory in respect of Changes in GSTR 8: The GST Council has announced a reduction in the Tax Collected at Source (TCS) rate, effective from 10th July 2024, as per Notification No. 15/2024. The key points are:

- **TCS Rate before 10th July 2024:** The old rate of 1% (0.5% CGST + 0.5% SGST/UTGST or 1% IGST) will apply to transactions from 1st July to 9th July 2024.
- **TCS Rate from 10th July 2024:** The new TCS rate of 0.5% (0.25% CGST + 0.25% SGST/UTGST or 0.5% IGST) will apply. Taxpayers should update their systems to reflect this change.
- **Filing GSTR-8:** Some taxpayers have faced validation errors while filing GSTR-8 for July 2024. GSTN is working on system updates, and the issue is expected to be resolved by 6th August 2024..

3] Advisory for furnishing bank account details before filing GSTR-1/IFF Notification No. 38/2023 - Central Tax New Delhi, the 4th August, 2023: As per Rule 10A of the CGST Rules, 2017 (notified on 28.06.2019), taxpayers must provide valid bank account details within 30 days of GST registration or before filing GSTR-1/using the Invoice Furnishing Facility (IFF), whichever is earlier.

From **1st September 2024**, this rule will be strictly enforced. For the **August 2024 tax period onwards**, taxpayers will not be able to file GSTR-1 or use the IFF unless valid bank account details are updated in their GST registration.

Taxpayers who haven't yet updated their bank account details must do so by navigating to **Services > Registration > Amendment of Registration Non-Core Fields on the GST Portal**.

Without valid bank account details, GSTR-1 or IFF filing will not be possible from the August 2024 period onwards.

4] Introduction of RCM Liability/ITC Statement: To help taxpayers correctly report Reverse Charge Mechanism (RCM) transactions, a new "RCM Liability/ITC Statement" has been introduced on the GST Portal. This statement captures RCM liability (Table 3.1(d) of GSTR-3B) and the corresponding ITC claimed (Tables 4A(2) and 4A(3) of GSTR-3B) for each return period. It will apply from the ****August 2024**** tax period for monthly filers and from the ****July-September 2024**** period for quarterly filers.

Taxpayers can report RCM ITC opening balances by navigating to **Services > Ledger > RCM Liability/TTC Statement > Report RCM ITC Opening Balance**. Depending on whether excess liabilities were paid or excess ITC was claimed, taxpayers must enter the relevant positive or negative opening balance. RCM ITC previously reversed can be reclaimed via **Table 4A(5) of GSTR-3B**, not through Tables 4A(2) or 4A(3).

- **Monthly filers** must report the opening balance considering RCM ITC up to July 2024, and quarterly filers for the April-June 2024 period.

- The deadline for declaring the opening balance is **31st October 2024**, with amendments allowed until **30th November 2024** (up to three times).

After 30th November 2024, amendments to the opening balance will no longer be permitted.

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For Private Circulation only. This note presents a summary of various notifications in simple language for easy understanding. You are requested to refer respective notification before the application of the text of this newsletter. While utmost care has been taken to provide up-to-date & current information, any person using this information may exercise sufficient caution. We shall not be responsible for any errors/omissions or any losses arising out of the use of the contents of this newsletter.



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