

SBGCo Connect - May 2022

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Greetings to all our readers!

April 2022 witnessed record GST collections at 1.68 lac crores. This is a new high for GST collections and with economy growing exponentially, the figures are expected to continue to go higher.

Recently, there have been news reports that the Government is contemplating rationalization of GST rates to a 3 tier-GST structure of 8, 18 and 28. To some extent such change would again reduce classification issues, but this would also have wide-spread ramifications, including increase in cost of consumption to consumers, cash flow impact for businesses, etc., This would also be a right time for businesses to make representations before the GST Council for getting covered under appropriate rate.

With FY 2021-22 having ended, it is important to reconcile details of outward and inward details with the details furnished in the returns during the previous year. This will ensure rectifications of any errors while filing returns during previous year and avoid unwarranted costs for the businesses. Further, with claim of ITC being restricted to matched credits in GSTR-2B only, taxpayers can also initiate communications with vendor wherever the ITC has not reflected in GSTR-2B and use the “communication between taxpayers” facility on the GST portal itself to communicate discrepancies, if any and resolve them at the earliest.

Through this newsletter, we bring to you a summary of recent developments in GST, divided into following sections:

- A. [What's New?](#)
- B. [Recent decisions from the Judiciary](#)
- C. [Recent Advance Rulings and analysis of the same](#)
- D. [Compliance Chart for the month of May 2022](#)

GST - Back to Basics

With GST close to completing 5 years in July 2022, we at SBGCo, felt the need to reconnect with the basic fundamentals of GST given the number of changes, updates and amendments introduced in the short yet eventful life of GST.

We are pleased to announce a lecture series “GST-Back to Basics” wherein our partners, CA. Sunil Gabhawalla, CA. Yash Parmar, CA. Parth Shah, CA. Darshankumar Ranavat will speak on different topics covering important areas of GST, such as levy, supply, place of supply, value of supply, time of supply, input tax credit, etc., The procedural areas, viz., return filing, documentation, department actions, etc., will also be covered in these lectures. The course will be free and open for all which will be conducted every Tuesday beginning from 10.05.2022 on Zoom Platform and simultaneously live streamed on our [YouTube channel](#) as well.

We look forward to hearing from you for any feedback or suggestion.

Team SBGCo



A. What's New?

I. Portal related enhancements

1. GSTR 1 related updates.

With a view to enhance the user performance & experience of filing GSTR-1 / IFF, the GSTN has been constantly upgrading the interface for GSTR-1 / IFF. Latest updates have been summarized hereunder:

a. Removal of 'Submit' button before filing.

The process of filing GSTR 1/ IFF has been amended to make filing of GSTR-1 a single-step process as under:

- i. Click 'Generate Summary' button to generate the summary
- ii. Click 'Proceed to File/Summary' button to view the final summary before filing
- iii. Click 'File Statement' button to file GSTR-1 / IFF.

The removal of submit button will permit the taxpayers to add / modify / update until filing of GSTR1/IFF as the same will freeze only upon clicking the 'File Statement' button rather than "Submit" button which was an intermediate step before filing GSTR 1/IFF. Therefore, any document can be added/deleted/modified after the Summary Generation which was not possible after the "submit" option under the earlier process.

b. Consolidated Summary

Taxpayers will now be able to download a table-wise consolidated summary before actual filing of GSTR-1/IFF. This consolidated summary will have a detailed & table-wise summary of the records added by the taxpayers. This will provide a complete overview of the records added in GSTR-1/IFF before actual filing.

Sample view of revamped GSTR-1 summary is presented below:

Description	No. of records	Document Type	Value (₹)	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	Cess (₹)
4A - Taxable outward supplies made to registered persons (other than reverse charge supplies) - B2B Regular							
Total	412	Invoice	42,70,293.85	4,39,557.24	1,63,011.01	1,63,011.01	0.00
4B - Taxable outward supplies made to registered persons attracting tax on reverse charge - B2B Reverse charge							
Total	44	Invoice	16,50,294.00	68,747.00	6,883.85	6,883.85	0.00
5A - Taxable outward inter-state supplies made to unregistered persons (where invoice value is more than Rs.2.5 lakh) - B2CL (Large)							
Total	0	Invoice	0.00	0.00			0.00
6A - Exports (with/without payment)							
Total	24	Invoice	93,31,580.50	0.00			0.00
- EXPWP	0	Invoice	0.00	0.00			0.00
- EXPWOP	24	Invoice	93,31,580.50				
6B - Supplies made to SEZ unit or SEZ developer - SEZWP/SEZWOP							
Total	5	Invoice	1,68,810.00	0.00			0.00
- SEZWP	0	Invoice	0.00	0.00			0.00
- SEZWOP	5	Invoice	1,68,810.00				
6C - Deemed Exports - DE							
Total	0	Invoice	0.00	0.00	0.00	0.00	0.00
7 - Taxable supplies (Net of debit and credit notes) to unregistered persons (other than the supplies covered in Table 5) - B2CS (Others)							



8 - Nil rated, exempted and non GST outward supplies							
Total			0.00				
- Nil			0.00				
- Exempted			0.00				
- Non-GST			0.00				
9A - Amendment to taxable outward supplies made to registered person in returns of earlier tax periods in table 4 - B2B Regular							
Amended amount - Total	0	Invoice	0.00	0.00	0.00	0.00	0.00
Net differential amount (Amended - Original)			0.00	0.00	0.00	0.00	0.00
9A - Amendment to taxable outward supplies made to registered person in returns of earlier tax periods in table 4 - B2B Reverse charge							
Amended amount - Total	0	Invoice	0.00	0.00	0.00	0.00	0.00
Net differential amount (Amended - Original)			0.00	0.00	0.00	0.00	0.00
9A - Amendment to Inter-State supplies made to unregistered person (where invoice value is more than Rs.2.5 lakh) in returns of earlier tax periods in table 5 - B2CL (Large)							
Amended amount - Total	0	Invoice	0.00	0.00			0.00
Net differential amount (Amended - Original)			0.00	0.00			0.00
9A - Amendment to Export supplies in returns of earlier tax periods in table 6A (EXPWP/EXPWOP)							
Amended amount - Total	0	Invoice	0.00	0.00			0.00
Net differential amount (Amended - Original) - Total			0.00	0.00			0.00
- EXPWP	0	Invoice	0.00	0.00			0.00
- EXPWOP	0	Invoice	0.00	0.00			0.00
9A - Amendment to supplies made to SEZ units or SEZ developers in returns of earlier tax periods in table 6B (SEZWOP/SEZWOP)							
Amended amount - Total	0	Invoice	0.00	0.00			0.00
Net differential amount (Amended - Original) - Total			0.00	0.00			0.00
- SEZWOP	0	Invoice	0.00	0.00			0.00
- SEZWOP	0	Invoice	0.00	0.00			0.00

c. Recipient-wise Summary

The consolidated summary page will also provide recipient-wise summary containing the total value of the supplies & the total tax involved in such supplies. This summary will be made available in all cases where the recipient count is upto 100.

Description [Collapse All ^]	No. of records	Document Type	Value (₹)	Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	Cess (₹)
4A - Taxable outward supplies made to registered persons (other than reverse charge supplies) - B2B Regular							
Total	14	Invoice	12,39,046.05	3,178.40	1,09,924.94	1,09,924.94	0.00
Recipient wise summary ^							
[REDACTED] LIMITED	3	Invoice	2,55,111.00	0.00	22,959.99	22,959.99	0.00
[REDACTED] PVT LTD	3	Invoice	1,05,420.00	0.00	9,487.80	9,487.80	0.00
[REDACTED] PRIVATE LIMITED	2	Invoice	7,74,550.00	0.00	69,709.50	69,709.50	0.00
[REDACTED] PRIVATE LIMITED	2	Invoice	34,820.68	0.00	3,133.86	3,133.86	0.00
[REDACTED] SERVICES PVT LTD	3	Invoice	51,486.62	0.00	4,633.79	4,633.79	0.00
[REDACTED] PRIVATE LIMITED	1	Invoice	17,657.75	3,178.40	0.00	0.00	0.00

2. Integration of MMI (Map my India) in address field for Registration applications

The Geo coded addresses given by Map My India (MMI) have been integrated with the GST System for existing normal taxpayers and persons applying for registration as normal taxpayer in Form GST REG-01. This feature is also enabled for normal taxpayers while applying for core / non-core amendment in their registration details involving change of address.



Taxpayers can now pinpoint the exact building location on the map to establish where the place of business is situated and the details regarding street name, plot number shall be picked up from the same.

3. **Displaying payment liability ratio**

While searching for a particular GSTIN in the “search taxpayer” option, a new feature has been introduced to show the % of liability paid by such taxpayer in their GSTR-3B viz-a-viz liability declared in GSTR-1. This will help recipient taxable persons to weed out cheating / non-compliant vendors who only upload line level transactions in GSTR-1 but do not discharge full tax liability.

% of Liability paid represents quantum of liability auto populated from GSTR-1 that was declared/paid in GSTR-3B.

Current Financial Year			Previous Financial Year		
Financial Year	Tax Period	% of Liability paid	Financial Year	Tax Period	% of Liability paid
2022-23	Total		2021-22	March	101%
			2021-22	February	101%
			2021-22	January	100%
			2021-22	December	100%
			2021-22	November	100%
			2021-22	October	100%
			2021-22	September	99%
			2021-22	August	101%
			2021-22	July	99%
			2021-22	June	100%
			2021-22	May	103%
			2021-22	April	101%
			2021-22	Total	100%

Note: Liability percentage is displayed for the periods only after GSTR-1 & GSTR-3B are filed and GSTR-2B is generated.

II. **Circulars / Guidelines / Instructions issued during the month**

4. **User Manual for filing of KFC Annual Return (Kerala State)**

A new tab has been introduced under the ‘Menu’ option on the left side of the screen / window after logging in the Kerala Flood Cess portal.



Government of Kerala
STATE GOODS & SERVICES TAX DEPARTMENT
KERALA FLOOD CESS

Home
File Return
Annual Return
Filing History
Payment History
Logout

Welcome to Flood Cess Portal

GSTIN : [] Legal Name : [] Trade Name : []

On clicking the said link, the website navigates to a new page which displays the year-wise table indicating a list of pending annual return liable to be filed by the said taxpayer.

Government of Kerala
STATE GOODS & SERVICES TAX DEPARTMENT
KERALA FLOOD CESS

Home
File Return
Annual Return
Filing History
Payment History
Logout

Flood Cess Annual Return

GSTIN : [] Legal Name : [] Trade Name : []

You are liable to file Kerala flood cess annual return for the following period(s)

Sl.No.	Period	Status	Action
1	2019-2020	Pending	Prepare Online
2	2020-2021	Pending	Prepare Online
3	2021-2022	Pending	Prepare Online

The detailed instruction manual / SOP regarding filing of the KFC Annual Return can be accessed from Kerala Government's website by clicking on the link [here](#).



B. Recent Decision from the Judiciary:

1. Agrometal Vendibles Pvt Ltd vs. State of Gujarat [2022-TIOL-355-HC-TRIPURA-VAT]

Issue Raised:

What is purpose of Form GST DRC-01A (pre-SCN intimation) and Form DRC-01 (SCN)? What is the purpose of issuing Form GST DRC-01A and Form DRC-01?

Facts of the case:

The Officer had issued an intimation of tax ascertained as being payable (viz., Form GST DRC-01A) under Section 74(5) of the CGST Act but the actual heading of the notice was Form DRC-01. The said intimation also threatened the petitioner that if they would fail to comply with the intimation, the department shall proceed to recover the tax along with interest and penalty from them.

Gist of the Decision:

The Hon'ble HC, while setting aside the notice issued to petitioner, held that the Department has failed to understand the purpose issuing Form GST DRC-01A and Form DRC-01. DRC-01A is not a show cause notice and therefore, threatening of recovery proceedings if payment not made is incorrect.

The HC also held that when an Officer intends to give the petitioner an intimation of the tax payable, the same should be issued in Form GST DRC-01A and the said form should mention that if the assessee would pay the tax, then the department would close the case, otherwise the department shall proceed to issue a show cause notice in Form DRC-01 and carry out regular assessment proceedings. A notice of intimation of tax ascertainment cannot threatened the petitioner to pay tax or department shall initiate recovery proceedings.

SBGCO Comments:

It is high time that CBIC/ State Authorities takes note of the various judgments issued by various Courts that clearly show lack of understanding of law and procedures on the part of the Officers. The Authorities need to understand that not every assessee would have resources at their disposal for approaching the HC always. Issuances of such threatening notices and forms only adds to the existing burden of the judiciary. Training sessions and understanding of the procedures is of paramount importance so that unnecessary resources are not wasted.



2. UoI vs Willowood Chemicals Pvt Ltd [2022-TIOL-586-HC-KOL-GST]

Issue Raised:

Whether HC order granting interest at on delay in granting of refund at a rate higher than prescribed in the statute was correct in law?

Gist of the Decision:

In a case involving delayed grant of refund, the Hon'ble HC had ordered for payment of interest at the rate of 9% in a case where there was a delay in processing refund claim between a range of 90 to 294 days, which was to be processed within 60 days. However, the SC set aside the Order and held that the same would apply on in cases where a claim of refund arises on account of an order passed by an Adjudicating Authority or Appellate Authority or Appellate Tribunal or Court and the same is not refunded within 60 days. Since the current case dealt with a scenario where there was a delay in processing of refund itself, applicable rate of interest for the same would be 6%.

SBGCO Comments:

Though an adverse decision for the taxpayers, this decision clearly lays down the role of judiciary to ensure that the law of the land is followed. When the law provides for payment of interest @ 6% in case of delay in grant of refund, the Courts cannot circumvent the same by ordering interest at a higher rate, though the Department may be at fault.

3. Alufit India Pvt Ltd vs. Commissioner of Service Tax [2022-TIOL-306-CESTAT-BANG]

Issue Raised:

Is reversal of CENVAT credit required on supplies made to SEZ units?

Gist of the Decision:

The Hon'ble Tribunal set aside the demand for reversal of CENVAT credit on account of supply to SEZ units. The Tribunal relied on the retrospective amendment made in Rule 6 of the CCR, 2004 (vide Finance Act, 2012) wherein it has been specified that even though services to SEZ units are exempted vide notification No. 4/2004-ST, the services to SEZ units do not require reversal of CENVAT Credit.

SBGCO Comments:

This is a classic example of how intentions of the erstwhile regime have been craftly incorporated under the GST law. Earlier, in the service tax regime, even though services to SEZ units were not taxable, there were demands for reversal of CENVAT credit which prompted the Government to introduce retrospective amendments. While transitioning to GST, the Government learnt from their previous errors and ensured that Supplies to SEZ units receive status of export in GST and accordingly there would not be any requirement of reversal of credit.



4. Smart Roofing Private Ltd Vs. State Tax Officer [2022-VIL-242- MAD]

Issue Raised:

Is levy of penalty justified in such cases where there was a technical error in not updating the new Branch address in GST registration certificate?

Gist of the Decision:

The Hon'ble HC acknowledged that the officers were not wrong to detain the goods and vehicles for wrong declaration in the EWB. However, HC also held that the officers should have taken cognizance of the fact that consignor and consignee were the same entity viz., HO and Branch within the same state. The HC set aside the penalty orders by the officers and also ordered the release of vehicle and consignment on the grounds that not adding the additional place of business was only a technical breach by the petitioner and there was no intention to evade tax.

SBGCO Comments:

The CBIC/ State Authorities must look into the cases of E-way Bill interceptions and update the existing circular directing their Officers to condone such minor procedural lapses. It is a known fact that EWB system has been introduced to track movement of goods and reduce tax evasion. If there is no intention to evade tax, bona fides of which can be established, then detention of such vehicles and consignment should not be permitted. In another case, the Tripura HC¹ commented that any hinderance in free movement of goods is an obstacle in the development of the nation.

¹ 2022-VIL-234-TRI [Podder and Podder Industries Pvt Ltd vs State of Tripura]



C. Recent Decisions from Advance Authority

1. Nagpur Waste Water Management Pvt. Ltd [Order No. MAH/AAAR/AM-RM/01/2022-23 (MH) = 2022-TIOL-13-AAAR-GST]

Background:

Nagpur Waste Water Management Pvt Ltd had set-up a Tertiary Treatment Plant to treat water from Sewage Treatment Plant and supply the same to Maharashtra State Electricity Generating Company Limited. It was clarified that water supplied is not potable drinking water but is suitable for the industrial use only.

When a question for exemption was raised before the AAR, it was held that such supply is taxable. Hence, the applicant preferred an appeal before the AAAR.

Question raised:

Whether Tertiary Treated Water is covered under the exemption Notification No. 02/2017-CT-(Rate) dtd.28.06.2017?

Gist of the Ruling:

Overruling the earlier decision, the AAAR held that water treated at Tertiary Treatment plant cannot be equated with water which has the characteristics of being “aerated, mineral, distilled, medicinal, ionic, battery de-mineralized and water sold in sealed container.”

The AAAR held that the category of water excluded from the exemption notification are supplied in the packaged form, i.e., in the sealed container to preserve their characteristics and specificity, while the same is not the case with the impugned product, which are supplied through pipelines.

It was therefore held that supply of Tertiary Treated Water is eligible for exemption as provided under Notification No. 02/2017-CT-(Rate) dtd.28.06.2017.

SBGCO comments:

The AAAR has aptly analysed the difference between processed water sold in packaged form viz-a-viz the supply of purified sewage water which was suitable for industrial use only by considering the difference between processed water in packaged form and processing sewage water for industrial use.



2. Cadila Healthcare Ltd [Order No. GUJ/GAAR/R/2022/19 = 2022-VIL-125-AAR]

Question raised:

Whether the subsidized deduction made by the Applicant from the employees who are availing food in the factory / corporate office would be considered as a supply by the Applicant under the provisions of Section 7 of CGST Act, 2017?

Gist of the Ruling:

The AAR has held that canteen service facility provided by applicant to its employees is not an activity made in the course or furtherance of business and hence, it is not deemed to be a Supply to the employees. Hence, GST is not leviable on the amount representing the employees' portion of canteen charges.

SBGCO comments:

The analysis by the AAR emphasises on the importance of determining the scope of 'supply' for each transaction and not treating a transaction as taxable merely because there is some recovery made. The AAR has held that canteen services are not provided by the employer and the entire amount collected from employee is paid to canteen service provider only without any retention. Similarly, this analogy can also be extended to other facilities (such as insurance, training sessions, etc.) extended by employers to employees where actual service is provided by a third party and a small / partial recovery is made by employers from employees for such facility.

3. GRB Dairy Foods Pvt Ltd [Order No. 16/2021 AAAR (TN) = 2022-TIOL-12-AAAR-GST]

Question raised:

GRB Dairy Foods Pvt Ltd are engaged in the business of manufacture and supply of ghee and other products. With the objective of expanding their market share, they had launched a sales promotion scheme named 'Buy n Fly' whereby on crossing certain pre-determined limit, the dealer would be eligible for rewards including a trip to Dubai. The issue before the Authority was whether input tax credit can be claimed on expenses incurred in relation to the said scheme?

Gist of the Ruling:

The AAAR held that the gifts or rewards were given without consideration, even though they were given for sales promotion. Therefore, the AAAR held that these rewards do not qualify as inputs for the purposes of claim of ITC since no GST is paid on its disposal. Therefore, ITC on inputs and input services involved in the goods and services used for the purpose of reward is not available to the applicant.

SBGCO comments:

The claim of input tax credit on marketing and sales promotion expenses has been mired with controversies, with CBIC also having withdrawn its' earlier circular. The matter will not reach finality till the time a decision from the Tribunal / a higher forum is passed.



4. Plantinum Motocorp LLP [Order No. HAR/AAAR/2019-20/03 (Haryana) = 2022-TIOL-09-AAAR-GST]

Background

Applicant supplies services of coaching to students which also includes along with coaching, supply of goods/printed material/test papers, uniform, bags and other goods to students. Such supplies are not charged separately but a consolidated amount is charged.

Question raised:

- a. Whether such supply shall be considered, a supply goods or a supply of services?
- b. whether such supply shall be considered as composite supply and what shall be the principal supply?
- c. When network partners provide services to the students on behalf of Applicant, who shall be considered as supplier of service and recipient of service under tire agreement?
- d. What shall be the value of service provided by Applicant to students and by network partner to Applicant?
- e. Whether both, Applicant and network partner can avail eligible ITC for their respective supplies?

Gist of the Ruling:

- a. Supply by the Applicant will be considered "Supply of Service"
- b. Such supply shall be considered as Composite supply, and Coaching service shall be principal supply.
- c. Applicant will be service provider to the students and Network partner will be service provider to the applicant.
- d. Total consolidated amount charged for which Tax invoice generated by the applicant will be the value of service supply by the applicant
- e. Applicant can avail eligible ITC as per provisions of GST Act, 2017.

SBGCO comments:

The AAR has correctly analysed the concept of composite supply and applied the same in the present case. Even while determining the value of coaching service, the AAR has accepted the fact that cost of bags, uniforms, study materials, etc. is a part of cost and the value of supply of service shall be the amount charged by applicant.



D. Compliance chart for May 2022

SN	Due Date	Form	Period	Periodicity	Special Remarks
1.	10.05.2022	GSTR - 7	April 2022	Monthly	To be filed by those who are required to deduct TDS under GST
2.	10.05.2022	GSTR - 8	April 2022	Monthly	To be filed by those who are required to collect TCS under GST
3.	11.05.2022	GSTR - 1	April 2022	Monthly	Taxpayers filing GSTR - 1 monthly
4.	13.05.2022	GSTR - 6	April 2022	Monthly	To be filed by an ISD
5.	13.05.2022	IFF	April 2022	Monthly	To be filed by those under QRMP Scheme (optional)
6.	20.05.2022	GSTR - 3B	April 2022	Monthly	To be filed by Taxpayer filing monthly GSTR 3B
7.	20.05.2022	GSTR - 5A	April 2022	Monthly	To be filed by non-resident Online Information and Database Access or Retrieval (OIDAR) services provider
8.	20.05.2022	GSTR - 5	April 2022	Monthly	To be filed by a non-resident foreign taxpayer registered in GST
9.	25.05.2022	PMT - 06	April 2022	Monthly	Challan to be filed for payment by those under QRMP Scheme



Disclaimer

This newsletter is for general public information and knowledge sharing. In case any clarifications required, you may connect with us at:

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