



# SBGco Connect – August 2020

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Greetings to all our readers!!

We wish that we find you in good health & spirits.

As we welcome September, we also welcome one of the most critical months from GST perspective, as this is the time when the due date for various actions under GST kicks in. Some of the key action points to be taken include - GSTR 2A vs input tax comparison for ITC claimed during FY 2019-20, correction / amendment in details uploaded in GSTR 1 filed for the FY 2019-20, ensuring all credit notes for invoices issued in FY 2019-20 are issued before the end of September, annual reversal ratio for common ITC claimed in FY 2019-20, filing of GSTR 9 and 9C for FY 2018-19 and filing of pending GSTR 3B for all previous months the due date of which had been extended during the lockdown.

The month of September will also require all such taxpayers who had an aggregate turnover of Rs. 500 crore or more during FY 2019-20 to prepare for e-invoicing which is set to be introduced from 1<sup>st</sup> October 2020. As you read this, we would like to inform you that the trials and testing for generation of Invoice Registration Number (IRN) as downloaded from the new Invoice Registration Portal (IRP) have already begun for the organization falling within the said criteria. It would be imperative for such taxpayers to start this process and be ready before the go-live date, as unpreparedness might have business challenges.

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

1. [Recent Notifications, circulars & press-releases](#)
2. [Recent decisions from the Judiciary](#)
3. [Recent Advance Rulings and analysis of the same](#)
4. [Compliance Chart for the month of September 2020](#)

We look forward to hearing from you for any feedback or suggestion for improvements. Wish you all a Happy reading. Stay Safe, Stay Healthy!

**Regards,**  
**Team SBGCO**



## Recent Notifications, Circulars & Press-releases

### 1. Amendment to process for GST Registration

Authentication of Aadhaar number while submitting GST registration form is made optional. However, in cases where the option is not exercised, registration to be granted only after physical verification of the place of business in the presence of the said person.

Time limit for issuing FORM GST REG-03 for deficiency or requirement of additional information has been increased from 3 working days to 21 working days from the date of submission of the application (in the cases where the person does not opt for authentication of Aadhaar number)

Deemed approval of application for grant of registration in case no action undertaken within prescribed time, i.e., within 3 working days of submission of application in case Aadhar authentication opted for and 21 working days in case not opted for.

Deemed approval if no action taken by proper officer within 07 working days from date of the receipt of the clarification, information or documents furnished by applicant after issuance of FORM GST REG-03) in FORM GST REG-04

*[Notification No. 62/2020 – Central Tax dated 20.08.2020]*

### 2. Interest on delayed payment

The much-awaited proviso inserted in section 50 of the CGST Act, 2017 vide section 100 of the Finance (No. 2) Act, 2019 relating to payment of interest only on net cash liability has been made effective from 01.09.2020, prospectively.

Further, on 26.09.2020, the CBIC vide a press release and a twitter clarification stated that no recoveries of past amounts would be made by Central and State Tax authorities on gross liability for the period 01.07.2017 to 31.08.2020

*[Notification No. 63/2020 – Central Tax dated 25.08.2020 read with Press Release issued on 26.08.2020]*

### 3. Import data in GSTR-2A

Two new tables have been inserted in GSTR-2A for displaying details of import of goods from overseas and inward supplies made from SEZ units / SEZ developers. This will help taxpayers (importers) to view their bill of entries data which is received by the GST System (GSTN) from ICEGATE System (Customs).

The Present data uploaded by the system is on trial basis and the data displayed is as per data available as on 6th August 2020. Further, the said system does not incorporate import information for bill of entries filed at non-computerized ports (non-EDI ports) and imports made through courier services / post office. However,



the press release confirmed that the same would also be available shortly.

Further, the tax-payers were also requested to share their feedback through raising a ticket on the self-service portal @ <https://selfservice.gstsystem.in>

*[Press Release issued on 29.08.2020 by Ministry of Finance]*

#### **4. Introduction of New Form - GSTR 2B**

Since the new GST return filing system with forms ANX-1, ANX-2, RET-1, RET-2 have been put on hold until further notice, the GSTN has come up with a new Form – GSTR 2B. This form can be accessed from the following path after logging into the GST portal – “Returns Dashboard > Select Return period > GSTR-2B.”

GSTR 2B is a statement that shows the input tax credit auto populated for a particular period based on the GSTR 1, 5 and 6 filed by registered tax payers during the said period. For e.g., In GSTR 2B of July month, the data from 12 a.m. on 12th of July 2020 to 11:59 p.m. on 11th August 2020 is visible on or after 12<sup>th</sup> August 2020. This will be useful for taxpayers before filing GSTR 3B of July 2020 on or before 20<sup>th</sup> August 2020. The various cut-offs for each month’s GSTR 2B can be viewed on the GST Portal as well.

Supplier wise and invoice level details can also be viewed on the portal. Further, the said statement can be downloaded in PDF as well

as excel format for viewing and analysis by the registered tax payer. Further, Details related to the availability of ITC is also available. Information about the filing of date of return is also given in this Form GSTR 2B.

#### **5. Further extension of time limit for filing Form GSTR-4**

Vide Notification 59/2020-Central Tax dated 13.07.2020, the time limit for filing Form GSTR-4 (to be filed by a GST composition dealer) for FY 2019-20 was extended from 15.07.2020 to 31.08.2020. The same is now extended again vide the issuance of the current notification. The new due date for filing Form GSTR-4 for FY 2019-20 is 31.10.2020.

*[Notification No. 64/2020 – Central Tax dated 31.08.2020]*



## Recent Decisions from the Judiciary

Citation	Facts of the case	Gist of the Judgment	SBGco Views
<p>Shri Venkateshvara Logistics vs. Asst. Commissioner of Central Tax and Central Excise, Bijapur</p> <p>[2020-TIOL-1400-HC-KAR-GST]</p>	<p>The transporter (petitioner) was engaged by a trader to transport 300 bags of areca nut. However, during transit, consignment was intercepted and it was found that the EWB and invoice furnished by the driver related to a different consignment of 220 bags of areca by the same supplier to the same recipient. The goods and vehicle were released after payment of applicable tax and equal amount of penalty. However, on the very same day of the release, the vehicle and goods were again intercepted at another location in the same state. The vehicle and goods were detained and when the respondent did not release the goods and the lorry, the petitioner has filed this petition for quashing the second order of detention as without the authority of law.</p> <p>The issue raised before HC was whether the exercise of power of seizure under section 67 of the CGST Act, 2017 was justified when there was apparent conflict in the E-way Bill and invoice and goods being transported?</p>	<p>Once the payment of tax and penalty at the time of first interception was done, the proceedings under section 129(3) of the CGST Act, 2017 stood concluded w.r.t. the consignment.</p> <p>Further, subsequent detention under Section 129 of the CGST Act, 2017 was not done by a proper officer who should be an officer not below the rank of a Joint Commissioner or authorized officer in Form GST INS-01. Also, the seizure order in Form GST INS-02 was not done, and hence, subsequent interception and detainment were not in exercise of Section 67 of the CGST Act, 2017.</p>	<p>In the present case, the HC rightly set aside the subsequent detention order since the same was without correct exercise of power under section 67 of the CGST Act, 2017. Further, this emphasis the need for implementation latest technology such as installation of Radio Frequency Identification devices which would help the easy tracking of the movement of goods and for verification of e-way bills and the payment of tax and so on and also ensure that there is no multiple detention of the same consignment.</p>



Citation	Facts of the case	Gist of the Judgment	SBGco Views
<p>Suresh Kumar PP vs. Deputy Director, DGCI, Thiruvananthapuram Zonal Unit</p> <p>[2020-TIOL-1376-HC-KERALA-GST]</p>	<p>Audit under section 65 was on-going and during the audit proceedings, investigation proceedings u/s 67 were initiated. Further, the bank account of the petitioner was also attached.</p> <p>The legality of this proceeding of raiding the house and offices of the petitioner was challenged before the High Court.</p>	<p>The proceedings initiated under Section 67 are not improper or illegal. The HC noted that a search and seizure operation necessarily brings along with it certain discomforts which are to be endured in the best interest of the person under investigation who witnesses every action of the inspection team and such action cannot be labelled as harassment or high-handed. Further, such allegations of harassment and high-handedness cannot be considered in a petition under Article 226 of the Constitution.</p> <p>Further, in relation to attachment of bank account, the HC held that there is no requirement of issuance of notice or requirement for hearing prior to such attachment because if such notice is issued or hearing is conducted, the account holder could defeat the purpose by withdrawing the amounts kept in such accounts.</p> <p>The HC held that generation of DIN is not required when an order for</p>	<p>The observation of the HC that Principles of Natural Justice do not apply in the case of attachments of bank accounts as such procedures could be detrimental to the interest of the revenue may be used by the Revenue to defend their action of blocking credits u/r 86A as well where credits are blocked without giving proper opportunity of being heard.</p> <p>Doing away with the requirement of DIN if the document is made in the presence of the opposite party is a new development, which comes to the aid of tax authorities in such cases.</p>



Citation	Facts of the case	Gist of the Judgment	SBGco Views
		seizure of documents is made in the presence of the appellants.	
State Bank of Bikaner and Jaipur vs. Commissioner of Central Excise and Central Tax, Alwar, Rajasthan  [2020-TIOL-1175-CESTAT-DEL]	<p>Take an example of two parties, one being “A” an Indian exporter and second being “B”, a foreign client. A has exported certain goods or services to B for which he is supposed to receive the proceeds in foreign exchange. While receiving the payment, A observes that the amount received is lesser than what ought to be received since foreign banks which facilitate the remittance deduct their charges. In this case, demand was raised on Bank of “A”, i.e., State Bank of Bikaner &amp; Jaipur requiring them to pay tax under reverse charge mechanism.</p> <p>The issue for consideration here was whether the Appellant bank was liable to pay service tax under reverse charge mechanism on the amounts deducted by the foreign bank from the amounts so collected from the foreign importer to be paid to the Indian exporter, via the Appellant Bank?</p>	<p>The Tribunal held that the Appellant Bank does not pay any consideration to the Foreign Bank and therefore cannot be said to be the recipient of any service. It further held that the Appellants Bank only plays the role of a mediator between the Indian exporter and the foreign banker representing the foreign importer. This is a general practice that the exporters are required to follow by routing the export documents through a banking channel. Thus, the Appellant Bank did not receive any service from the Foreign Bank.</p>	<p>While this is a welcome judgement, this might be a challenging decision for the exporters who receive their proceeds after deduction of bank charges levied by the foreign bank and might trigger a liability under reverse charge. This can also have implications under GST regime and therefore, taxpayers having such transactions should re-visit the GST implications thereon.</p>
Ashok Kumar vs. Commissioner of C. Ex.,	This is a case involving allegations of fraudulently availing input tax credit. When the investigation was ongoing,	Rejecting the bail application for applicant no. 1, the HC held that Chapter XIX (offenses and penalties)	This judgment is a good example for taxpayers to be cautious while responding to notice or recording



Citation	Facts of the case	Gist of the Judgment	SBGco Views
<p>and CGST, Navi Mumbai Commissionerate</p> <p>[2020-TIOL-1388-HC-MUM-GST]</p>	<p>the Appellants had recorded his statements wherein they had admitted that his firms had not received goods from the suppliers on which invoices they had availed ITC and that no payment was made to the said suppliers.</p> <p>However, by a subsequent submission, the Appellants had submitted copies of invoice, LR, etc., to demonstrate the genuineness of the transactions. Apprehending arrest pending investigation, the Applicant and his wife, both partners of the firm under investigation, had applied for anticipatory bail from the HC.</p>	<p>is not subject to assessment as per Chapter XII (Audit). Both Chapters, i.e., XIX and XII are distinct and application of the provisions thereunder are distinct and not subject to each other.</p>	<p>statements as making incorrect submissions may backfire for the taxpayers.</p>
<p>Om Logistics Ltd vs. Commissioner of Central Goods and Service Tax, New Delhi</p> <p>[2020-TIOL-1266-CESTAT-DEL]</p>	<p>In this case, the Appellant company had claimed CENVAT credit on 'Term Insurance Policy' on the life of Managing Director (Keyman-person) the maturity benefit of which was to accrue to the Appellant Company.</p> <p>The issue before Tribunal was whether CENVAT Credit of service tax paid on keyman insurance policy can be claimed?</p>	<p>The Hon'ble CESTAT held that the appellant is entitled to avail CENVAT credit under Rule 2 (l) of CENVAT Credit Rules, 2004 on the Keyman Insurance since the benefit will be payable to the Appellant company under this policy, as mentioned in the policy documents.</p>	<p>Keyman insurance is regularly incurred by various business to insure the business in case of death of an employee, who is vital to the business. Being in the nature of life insurance, which was excluded from the scope of definition of input services u/r 2 (l) of CCR, 2004, there was substantial confusion over whether credit could be availed on insurance premiums paid on keyman policy or not and</p>





Citation	Facts of the case	Gist of the Judgment	SBGco Views
			<p>there were instances where the credit was denied by the Department? In that context this is a welcome judgment.</p> <p>The operation of this decision will now be important in the context of GST also where Section 17 (5) specifically provides that no input tax credit shall be claimed on life insurance service</p>



## Recent Advance Rulings

Citation	Ruling sought on?	Gist of the Ruling	SBGco Views
George Jacob KER/95/2020 = 2020-TIOL-221- AAR-GST	Whether lease rent charged by municipality for land i.e., water channel used for fish farming falls within the meaning of "services relating to rearing of all life forms of animals - by way of renting or leasing of vacant land" eligible for GST exemption as per Sr No. 54 of Notification No. 12 / 2017 - CT (Rate) dated 28.06.2017?	In the instant case, the fish and crabs being reared by the applicant in the water channel taken on rent / lease are animals and the service of renting / leasing of the water channel has been availed by the applicant for the rearing of such animals. Thus, activity of renting / leasing the water channel by the Gram Panchayat to the applicant for fish farming for a consideration determined through auction is squarely covered under the exemption entry at Sr No. 54 of Notification No. 12/2017 CT (Rate) as services relating to 'rearing of all life forms of animals by way of renting or leasing of vacant land'.	The AAR has correctly interpreted the Sr No. 54 of Notification No. 12 / 2017 - CT (Rate) and correctly held that exemption is eligible in the present for renting / leasing of water channel by the Gram Panchayat to the applicant determined through an auction.
M/s Lakshmi Tulasi Quality Fuels 12/AP/GST/2020 = 2020-TIOL-188- AAR-GST	Whether the applicant is eligible for the exemption from payment of GST on the monthly rentals received by her on lease of her residential building to D-Twelve Spaces Private Limited, as per Sr.No.13 of the Notification No. 9/2017 (Integrated Tax-Rate) Dated 28-06-2017?	The AAR concluded that the applicant has rented out her dwelling for commercial activity based on following points of the lease deed: a. Lessee shall have the right to deploy branding strategies on the total property and use all entrances, exterior walls, areas and structures on the total property, at its own costs and expense, to put up nameplates,	The Judgement of the AAR does not take into consideration as to whether the service provided by the Applicant was for renting of residential dwelling for use as residence or not? There is no doubt that this residential dwelling is to be used as residence by the tenant, among other things, such as providing food & beverages, providing space for OOH advertising, etc., But all these activities would be undertaken by tenant with a



Citation	Ruling sought on?	Gist of the Ruling	SBGco Views
		<p>hoardings, flyers, boards and anyother signage or advertisement.</p> <p>b. the lessee has the right to sublease the aforesaid property during the lease term to any third party with prior intimation to the applicant for long stay accommodation</p> <p>c. there are 73 rooms in the building with all amenities like exhaust fans, geysers, lights and fittings, curtain rods, sanitary fittings, curtain rods etc., provided by the applicant</p> <p>d. Apart from renting of the rooms, the inmates are also being provided with food and hospitality services</p>	<p>third party. The contract between the landlord and tenant would be that of renting of residential dwelling for use as residence, which is getting satisfied and therefore, in our view, exemption should be available.</p>
<p>Navneeth Kumar Talla</p> <p>TSAAR Order No. 07/2020 = 2020-TIOL-210-AAR-GST</p>	<p>a. Whether food supplied to hospital i.e., Government Hospitals, Private Hospitals and Autonomous Bodies on outsourcing basis the GST is chargeable? If GST is chargeable what is the tax rate?</p> <p>b. If no GST is chargeable on the supply of food, whether the GST already paid by the Hospitals and remitted to Government is recoverable from future Bills to be issued to the client?</p>	<p>In the present case, as per the contract furnished by the applicant, it is seen that the applicant prepares food using his own labour at the premises of hospitals, who are the recipient of the service, and the applicant supply food to consumers who don't make payment to the applicant. The applicant is paid only by the hospitals.</p> <p>Thus, the AAR held that in the present case, the activity of the Applicant is that of supply of 'restaurant services' other than at 'specified premises', chargeable to 5% GST (w.e.f. 27.07.2018) subject to</p>	<p>The AAR has correctly determined the GST applicability in the present case. No exemption is provided in the GST law for such activity by the applicant.</p>



Citation	Ruling sought on?	Gist of the Ruling	SBGco Views
		the condition of non-availability of input tax credit.	
<p>Daicel Chiral Technologies (I) Pvt Ltd</p> <p>TSAAR Order No.05/2020 = 2020-TIOL-211-AAR-GST</p>	<p>a. Whether the applicant is eligible to avail input tax credit of GST paid on payment of Lease Premium Charges (one-time charges) towards land lease for business purpose?</p> <p>b. Whether the applicant is eligible to avail input tax credit of GST paid on annual lease rentals (recurring) towards supply of land on lease for business purpose?</p> <p>c. Whether the applicant is eligible to avail input tax credit of GST paid on maintenance charges collected by the lessor?</p>	<p>The AAR concluded that the three services referred to in the application were squarely covered u/s 17(5)(d) of the CGST Act, 2017 and hence ineligible to ITC since the land was to be used for construction of a building which was an immovable property and not classifiable as plant and machinery to merit exclusion from the applicability of section 17 (5) (d) of the CGST Act, 2017.</p>	<p>In the present case, the AAR has adopted the strictest interpretation of section 17(5) of the CGST Act, 2017.</p> <p>Surprisingly, the Authority has also held that ITC shall not be allowed in case of recurring annual lease rentals / maintenance charges which are not towards construction of an immovable property at all. We believe that GST paid on annual lease rentals (recurring) and maintenance charges, not capitalized should be available as input tax credit as restriction is not applicable if such expenditure is not capitalized.</p> <p>Further, the AAR does not touch upon the applicability of the decision of Orrisa HC in the case of Safari Retreats Private Limited vs. Union of India [2019 (25) GSTL 341 (Ori)] regarding eligibility of ITC for construction of an immovable property.</p>
<p>Jabalpur Hotels Pvt Ltd</p> <p>Order No. 10/2020</p>	<p>Whether Input credit on Purchase of Lift would be available to Hotel as it has been used in the course or for the furtherance of business?</p>	<p>The AAR concluded that ITC was not available to the Appellants for the following reasons:</p>	<p>In our view, the decisions under the GST regime, which lay down the principle of what constitutes plant &amp; machinery and what does not, shall continue to apply</p>



Citation	Ruling sought on?	Gist of the Ruling	SBGco Views
= 2020-TIOL-196-AAR-GST		<p>a. Lift becomes part of the building and has no separate distinct identity from the building. Infact, it is a customized mechanism for transportation, designed to suit specific building. Upon piece by piece installation, it becomes an integral part of the building.</p> <p>b. Life is not a plant and machinery and therefore not excluded from Sec. 17(5)(d) of the CGST Act. The decisions cited by the Appellants pertained to Pre-GST era and therefore did not merit consideration</p>	<p>even under the GST regime and the reliance on the same cannot be brushed aside merely for the reason that the same was rendered under the pre-GST regime.</p> <p>Interestingly, the AAR is also silent on the applicability of the decision of Orrisa HC in the case of Safari Retreats Private Limited vs. Union of India [2019 (25) GSTL 341 (Ori)].</p>



### Compliance Chart for the month of September 2020

Sr No	Due Date	Particulars	Period	Periodicity	Special Remarks
1.	10.09.2020	GSTR - 7	August 2020	Monthly	To be filed by the person who is required to deduct TDS under GST
2.	11.09.2020	GSTR - 1	August 2020	Monthly	Taxpayers filing GSTR - 1 monthly
3.	12.09.2020	GSTR - 3B	May 2020	Monthly	Taxpayers having Aggregate T/o of < 5Cr in FY 2019-20 (#)
4.	13.09.2020	GSTR - 6	August 2020	Monthly	To be filed by an Input Service Distributor
5.	15.09.2020	GSTR - 3B	May 2020	Monthly	Taxpayers having Aggregate T/o of < 5Cr in FY 2019-20 (\$)
6.	20.09.2020	GSTR - 3B	August 2020	Monthly	Taxpayers having Aggregate T/o of > 5Cr in FY 2019-20
7.	20.09.2020	GSTR - 5A	August 2020	Monthly	To be filed by non-resident Online Information and Database Access or Retrieval (OIDAR) services provider
8.	20.09.2020	GSTR - 5	August 2020	Monthly	To be filed by a non-resident foreign taxpayer registered in GST
9.	23.09.2020	GSTR - 3B	June 2020	Monthly	Taxpayers having Aggregate T/o of < 5Cr in FY 2019-20 (#)
10.	25.09.2020	GSTR - 3B	June 2020	Monthly	Taxpayers having Aggregate T/o of < 5Cr in FY 2019-20 (\$)
11.	27.09.2020	GSTR - 3B	July 2020	Monthly	Taxpayers having Aggregate T/o of < 5Cr in FY 2019-20 (#)
12.	29.09.2020	GSTR - 3B	July 2020	Monthly	Taxpayers having Aggregate T/o of < 5Cr in FY 2019-20 (\$)
13.	30.09.2020	GSTR 9	FY 2018-19	Annual	Taxpayers having Aggregate T/o of > 5Cr in FY 2018-19
14.	30.09.2020	GSTR 9C	FY 2018-19	Annual	Taxpayers having Aggregate T/o of > 5Cr in FY 2018-19

(#) Last date for filing return without late fees and interest for the states of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union Territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

(\$) Last date for filing return without late fees and interest for the states of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.



## 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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