



# **SBGCo Connect - July 2024**

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Greetings to all our readers!

As of July 1, 2024, GST has completed seven years. We are now witnessing increased stability in the entire process, with the government actively addressing and simplifying various pain points for different stakeholders. A notable example is the 53rd GST Council meeting, held after a long hiatus, where numerous decisions were made. These include granting relief for old litigation, clarifying certain grey areas, accepting specific trade positions as they are, and much more.

The relief announced by the GST Council coincides with the reprieve from the extreme summer heat brought by the arrival of the monsoon. We hope that both the weather and the GST system remain stable, allowing the people of India to enjoy these welcome changes.

As we enter July, we transition into the compliance phase for the previous financial year. This period involves finalizing Books of Accounts, conducting Company Law Audits and Tax Audits, and performing GST reconciliations (both outward and inward), among other tasks. To ensure timely completion and avoid last-minute surprises or issues, it is crucial to plan all activities well in advance.

We would also like to remind our readers that while various GST compliance deadlines have been extended to the October returns of the succeeding year, the annual reversal under Rule 42-43 must still be completed on or before the GSTR 3B filing for September of the previous financial year. To avoid additional interest charges, it is advisable to compute the annual reversal as early as possible. If any short-reversal occurred during FY 2023-24, it should be addressed in the upcoming returns.

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

- A. [What's New?](#)
- B. [Recent decisions from the Judiciary](#)
- C. [GST Compliance Chart for the month of July 2024](#)

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

Team SBGCo



## **A. What's New?**

### **I. Circulars issued during the month**

#### **A. Taxability-related**

- **Clarification in respect of GST liability and ITC availability in cases involving Warranty/ Extended Warranty.**

*(Circular no. 216/10/2024 - GST dated 26.06.2024 read with Circular No. 195/07/2023-GST dated 17.07.2023, as updated)*

- The CBIC had previously issued a circular on the same issue in July 2023 (vide Circular No. 195/07/2023-GST dated 17.07.2023). However, certain additional/ancillary queries were raised which have now been clarified in the present circular.
  - i. When the manufacturer/distributor provides replacement of goods or their parts during the warranty period without charging any additional consideration from the recipient:
    - No GST is chargeable on such replacement of goods or their parts
    - Manufacturer/ Distributor is not required to reverse the ITC in respect of the said replacement goods or their parts

(Previous clarification did not include a scenario for replacement of the entire good within the warranty period, now that lacunae are sought to be addressed via the present circular)

- ii. Extended warranty:
  - Extended warranty shall be treated as a composite 'supply' with the supply of original goods only when the same is provided by the manufacturer at the time of supply of such goods.
  - In case extended warranty is provided by a third party (whether at the time of supply of goods or subsequently) or by manufacturer, at any time after the original supply of goods, then the extended warranty shall be treated as a separate supply of 'service' distinct from the original supply of goods.

(Previous clarification was issued that all extended warranty shall be treated as composite supply. However, considering various business model in operation, clarification is now updated as above)

- **Mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 (i.e., post-supply discount by way of issuance of Credit notes) by the suppliers**

*(Circular No.-212/6/2024-GST dated 26.06.2024)*

- Section 15 of the CGST Act allows discounts given by suppliers to be excluded from the taxable value, subject to certain conditions. One such condition is that input tax credit attributable to such discount has been duly reversed by the recipient.



- However, there is no system functionality/ facility presently available on the common portal to enable the supplier or the tax officer to verify the compliance of the said condition of reversal of input tax credit by the recipient.
- Due to the absence of a system on the common portal for verifying this reversal, the CBIC has provided that suppliers may now obtain a certificate from recipients, issued by a Chartered Accountant (CA) or Cost Accountant (CMA) with applicable UDIN, confirming the reversal of input tax credit in the case where the amount of tax involved in the discount given by the supplier is exceeding Rs 5,00,000/-
- Where the amount of tax involved in the discount given by the supplier is up to Rs. 5,00,000/-, then instead of obtaining CA or CMA certificate, supplier may procure an undertaking/ certificate from the said recipient that the said input tax credit attributable to such discount has been reversed.

- **Clarification on taxability of salvage/ wreck value earmarked in claim assessment of the damage caused to the motor vehicle**

*(Circular no. 215/9/2024 - GST dated 26.06.2024)*

- There was uncertainty regarding the taxability of salvage/ wreck value in the hands of insurance company in the course of claim assessment of the damage caused to the motor vehicle.
- In this regard, the Circular has clarified that the key criteria for determining whether GST is payable on salvage/ wreck value is whether the ownership of the same rests with the insurance company or not.
- When the insurance company's liability to pay the insured is limited to the Insured's Declared Value (IDV) of the vehicle less the value of salvage/ wreck in cases of a total loss to the vehicle, the salvage/ wreckage does not become property of insurance company and the ownership for such wreckage/ salvage remains with the insured. In such cases, GST is not payable by the insurance company on the value of salvage/ wreck.
- However, in situations where the insurance contract provides for settlement of the claim on full IDV (i.e., without deduction of value of salvage/ wreck), then in such case, the wreck/ salvage becomes the property of Insurance Company after settling the claim for the full amount. The insurance company is obligated to deal with the same in a manner they deem fit. In such cases, the outward GST liability on disposal/sale of the salvage/ wreckage is to be discharged by the insurance companies.

- **Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person**

*(Circular no. 218/12/2024 - GST dated 26.06.2024)*

- In certain loan/ credit transactions, overseas affiliates or domestic related persons are not charging any consideration (such as processing fee/ service fee) other than the consideration by way of interest or discount on the loan amount. Whether the Department can resort to open market value for valuation of such transactions (since, activities between related person are treated as supply, even without consideration)?



- The CBIC has clarified that, in some cases, no consideration (such as processing fee/ service fee) is charged between related parties because there may not be any 'processing' function required for processing of such loan and hence, open market value as per Rule 28 of CGST Rules need not be invoked in such cases.
- However, if any fee in the nature of processing fee/ administrative charges/ service fee/ loan granting charges etc. is charged, over and above the amount charged by way of interest or discount, the same may be considered to be the consideration for the supply of services of processing/ facilitating/ administering of the loan, which will be liable to GST.

### **B. ITC-related**

- **Clarification on time limit under Section 16(4) of CGST Act in respect of tax paid under RCM on supplies received from unregistered persons**

*(Circular No. 211/5/2024-GST dated 26.06.2024)*

- The Circular clarifies that the self-invoice issued by the recipient is the document on the basis of which credit of tax paid under RCM is available to the recipient in case of supplies received from unregistered persons.
- The CBIC has now clarified that the time limit prescribed under Section 16(4) of the CGST Act shall be understood as referring to the self-invoice issued by the recipient and accordingly, the relevant financial year for claiming ITC of such tax paid under RCM shall be the year in which the recipient issues such self-invoice.
- Additionally, the CBIC has also clarified that taxpayers would be required to pay interest and penalty in such cases for violating the provision related to time of supply, in case there is a delay in issuance of such self-invoice

- **Clarification on the requirement of reversal of ITC in respect of the portion of the premium for life insurance policies which is not included in taxable value**

*(Circular no. 214/8/2024 - GST dated 26.06.2024)*

- Under GST, the total value collected from the insured for life insurance is not treated as taxable value. Certain amount (attributable towards investment/ savings) is excluded from value of supply in terms of Rule 32(4) of the CGST Rules. Whether reversal of ITC under Section 17(2) read with Rule 42 of the CGST Rules is required for such value on which GST is not paid by life insurance companies?
- The circular clarifies that the value attributable towards investment/ savings, which is excluded from taxable value under Rule 32(4) of the CGST Rules is neither exempt nor non-taxable supply. Hence, the portion of the premium, which is not includible in the taxable value of supply as per Rule 32(4) of CGST Rules, cannot be considered as amount pertaining to an 'exempt' supply for the purposes of Rule 42 of the CGST Rules. Therefore, there is no requirement of reversal of ITC as per provisions of Rule 42 of the CGST Rules, read with Section 17(2) of CGST Act, to the extent of such amounts.



- **Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement**

*(Circular No. 217/11/2024-GST dated 26.06.2024)*

- Doubts were raised regarding the eligibility of ITC in the hands of the Insurance companies providing general insurance services in respect of motor vehicles repairs expenses incurred by them in case of reimbursement mode of claim settlement (payment to garage is first made by the insured and subsequently reimbursed by insurance company) where the garage issues the invoice in the name of the insurance company and the insurance company reimburses the approved claim cost to the insured.
- In this regard, it is clarified by the CBIC that if the garage issues two separate invoices for the repair services—one to the insurance company for the approved claim cost and another to the customer for the excess amount—the insurance company may claim ITC on the invoice issued to it, provided it reimburses the customer.
- However, if the garage issues a single invoice to the insurance company for the full repair cost and the insurer reimburses only the approved claim amount, the ITC for the insurance company is limited to the reimbursed amount only.
- In all these cases, it is essential that the invoice for the repair of the vehicle is in name of the insurance company. If not, the insurance company will not be able to claim ITC for such invoice.

- **Clarification on the availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act**

*(Circular No. 219/13/2024-GST dated 26.06.2024)*

- There were doubts as to whether ducts and manholes used in the network of OFCs would be considered as immovable property and thus the ITC on the same would be treated as ineligible u/s 17(5)(c) of the CGST Act?
- The CBIC has clarified that duct and manholes would be classified as plant and machinery [exclusion to section 17(5)(c)] since they are the basic components of the OFC network. These are generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of network. These ducts and manholes are also used for upkeep and maintenance.
- Thus, ITC on ducts and manholes used in network of OFCs would not be restricted in terms of section 17(5) of the CGST Act

### **C. Time of Supply related**

- **Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of NHAI in Hybrid Annuity Mode (HAM) model**

*(Circular No. 221/15/2024-GST dated 26.06.2024)*

- A HAM contract is a single contract for construction as well as operation and maintenance of the highway and the construction of a new highway generally takes 15-



17 years. The payments are spread over the period of the contract and made in installments.

- The circular clarifies that the time of supply of such services would be determined as tabulated below:

Scenario	Clarification on time of supply of service
a. Invoice is issued on or before the date of completion specified in the contract	Earlier of: i. Date of issuance of invoice ii. Date of receipt of payment
b. Invoice issued after the date of completion specified in the contract	Earlier of: i. Date of provision of service i.e. due date of payment as per the contract ii. Date of receipt of payment

- It is also clarified that the taxable value shall include both, the principal amount and the interest component, if any, in the annuity/ instalment payments made by NHAI to the service provider

- **Clarification on time of supply of services of spectrum usage and other similar services under GST**

*(Circular No. 222/16/2024-GST dated 26.06.2024)*

- Under the spectrum allocation model, the service provider is Government of India and service recipient is telecom operator/bidder. The GST is liable to be discharged by the telecom operator (i.e., service recipient) under RCM. Further, it is clarified that supply of service of spectrum usage would be treated as continuous supply of service.
- The telecom operator has two options to make the payment i.e. upfront payment and deferred payment. The time of supply of service in both the cases is clarified as under:

Scenario (as per "Frequency allotment Letter")	Clarification on time of supply of service
a. Upfront payment	Earlier of: i. Date of payment of upfront payment ii. Due date of payment as per contract
b. Deferred payment	Earlier of: i. Date of payment of installments ii. Due date of payment as per contract

- The circular also states that the above clarification would apply to other government allocations of natural resources involving continuous supply with payment options, either upfront or deferred



#### **D. Place of Supply related**

- **Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors (FPIs)**

*(Circular No. 220/14/2024-GST dated 26.06.2024)*

- Various banks and financial institutes provide custodial services to FPIs by acting as a custodian for maintaining their securities account.
- There was an interpretation issue regarding the determination of place of supply for such services i.e., whether Section 13(2) or Section 13(8)(a) of IGST Act shall be applicable for such services?
- Placing reliance on the education guide under Service Tax regime, the circular has clarified that the custodial services provided by banks/ financial institutions to FPIs will NOT be considered as services provided to an account holder. Therefore, the said services are not covered under section 13(8)(a) of IGST Act, 2017.
- Accordingly, the place of supply for the said custodian service will be determined under section 13(2) of IGST Act i.e., location of the recipient of the services (address available on record in the ordinary course of business)

- **Clarification regarding provisions of Section 10(1)(ca) of the IGST Act relating to place of supply of goods to unregistered persons**

*(Circular No. 209/3/2024-GST dated 26.06.2024)*

- As per Section 10(1)(ca) of the IGST Act for supply of goods made to unregistered person, the place of supply shall be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and where the address of the said person is not recorded in the invoice, the place of supply shall be the location of the supplier.
- The said circular has clarified that in case of goods supplied to unregistered person through ecommerce platform wherein the billing address is different from the address of delivery, the place of supply shall be address of delivery of goods.
- Also, it is clarified that the suppliers may record the delivery address as the address of the recipient on the invoice raised for the said supply

#### **E. RCM-related**

- **Clarification on the valuation of import of services in the hands of recipient in India from a foreign-related person where recipient is eligible to full ITC**

*(Circular No.210/4/2024-GST dated 26.06.2024)*

- The circular clarifies that when recipient in India is eligible for full input tax credit, the declared value on the self-invoice (generated by the recipient) for services provided by a foreign related party will be treated as the open market value, including NIL value.
- The above clarification is similar to the one outlined in Circular No. 199/11/2023 - GST dated 17.07.2023 and relies on second proviso to Rule 28(1) of CGST Rules.





- Caveat: this circular is beneficial only in cases where both the supplier (outside India) and recipient (in India) are related parties. Where the supplier is unrelated party, RCM is payable on the value of invoice issued by such unrelated supplier.
  
- **Clarification on the taxability under RCM for ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company**  
*(Circular No. 213/7/2024-GST dated 26.06.2024)*
  - Doubts were raised regarding taxability of cost reimbursed by Indian subsidiary to foreign holding company for Employee Stock Option (ESOP)/Employee Stock Purchase Plan (ESPP)/ Restricted Stock Unit (RSU) provided by the foreign holding company to the employees of Indian subsidiary company. Whether such cost reimbursement by Indian subsidiary to foreign holding company for ESOP/ ESPP/ RSU allotted to Indian employees shall be liable for GST under RCM as import of service?
  - The CBIC clarified that the fundamental essence of these transaction is nothing but the allocation of securities or shares from the employer to employee as part of compensation package with the aim of motivating enhanced performance.
  - Securities under GST Law are considered neither “goods” nor “services.” Accordingly, purchase or sale of securities/shares, in itself, is neither a supply of goods nor a supply of services. Therefore, in the absence of such transaction, falling under the supply of ‘goods’ or ‘services’ as per GST Act, GST is not leviable on said transaction of sale/purchase/transfer of securities/shares.
  - Furthermore, as per Entry 1 of Schedule III of the CGST Act, the services by an employee to the employer in the course of or in relation to his employment are treated neither as supply of goods nor as supply of services. Therefore, GST is not leviable on the compensation paid to the employee by the employer as per the terms of employment contract which involve transfer of securities/shares of the foreign holding company to the employees of domestic subsidiary company. Hence, the cost reimbursement by Indian subsidiary to foreign holding company for ESOP/ ESPP/ RSU allotted to Indian employees shall NOT be liable to tax under RCM as import of service.
  - The circular also clarified that if the foreign holding company charges any additional fee, markup, or commission from the domestic subsidiary company for issuing such ESOP/ESPP/RSU to the employees of the domestic subsidiary company, then the same shall be considered to be in nature of consideration for the supply of services of facilitating/ arranging the transaction in securities/ shares by the foreign holding company. In such case, GST will be leviable on such amount of the additional fee, markup, or commission, charged by the foreign holding company from the domestic subsidiary for issuance of its securities/shares to the employees of the latter.



## **F. Miscellaneous**

- **Fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and the Supreme Court**

*(Circular No. 207/1/2024-GST dated 26.06.2024)*

- With a view to reduce litigation, the CBIC has clarified the monetary limits applicable for the Department for filing of appeal/ petition before Goods and Service Tax

<b>Appellate Forum</b>	<b>Monetary Limit (amount involved in Rs.)</b>
GSTAT	20,00,000/- (Twenty lacs)
High Court	1,00,00,000/- (One crore)
Supreme Court	2,00,00,000/- (Two crore)

- The Circular has clarified certain instances where such monetary limit shall not apply:
  - a. Wherein any provision/rules or regulations/ order, notification, instruction, or circular of CGST Act or SGST/UTGST Act or GST (Compensation to States) Act or Government has been held ultra vires to the Constitution of India/parent Act
  - b. Where strictures/adverse comments have been passed and/or cost has been imposed against the government/department or their officers or where it is necessary to contest in the interest of justice or revenue
  - c. Issue involved is recurring and/or interpretation of the provisions

- **Clarifications on various issues pertaining to special procedures for the manufacturers of pan-masala, tobacco, khaini, zarda, gutka, etc.**

*(Circular no. 208/02/2024 - GST dated 26.06.2024)*

- Various queries have been answered by the CBIC in the said circular for questions regarding the following areas:
  - a. Non-availability of make, model number, machine number
  - b. Electricity consumption rating not available for packing machines used
  - c. Value reporting in case of export of such goods
  - d. Qualification and eligibility of the Chartered Engineer
  - e. Applicability of special procedures for units located in SEZ unit
  - f. Multiple machines operated for packaging
  - g. Compliance in case of job-work/ contract manufacturing



## II. Press Release for 53<sup>rd</sup> GST Council Meeting

- **The recommendations of the 53<sup>rd</sup> GST council meeting was released via issuance of a press-release on 22.06.2024. The readers must note that the actual detailed procedure/ amendment/ provisions/notifications under the law have not been issued. The below summary is merely an indication of the changes proposed in the press-release issued.**
- **Litigation related:**
  - Amnesty scheme: Conditional Waiver for Interest and penalties will be proposed for demand notices issued under Section 73 of the CGST Act (not involving fraud, suppression, or wilful misstatement) for fiscal years 2017-18 to 2019-20 provided full tax is paid by 31.03.2025. The waiver shall not cover demand of erroneous refunds
  - Reduction of pre-deposit requirements: The maximum amount for filing appeal with the appellate authority will be reduced from Rs. 25 crores CGST and SGST each to Rs. 20 crores CGST and CGST each. Further, the amount of pre-deposit for filing appeal with the Appellate Tribunal will be reduced from 20% with a maximum amount of Rs. 50 crores CGST and SGST each to 10 % with a maximum of Rs. 20 crores CGST and SGST each.
  - Time-limit for filing of appeal before Appellate Tribunal: Three-month period for filing of appeal before GSTAT shall be notified by the Government in respect of appeal/ revision orders passed before the date of such notification.
  - New Section 74A to be introduced: The new provision will be introduced to provide for common time limit for issuance of demand notices and orders irrespective of whether case involves fraud, suppression, wilful misstatement etc., or not. Also, the time limit for the taxpayers to avail the benefit of reduced penalty, by paying the tax demanded along with interest, will be increased from 30 days to 60 days
  - Mechanism for adjustment of an amount paid in respect of a demand: The GST Council proposed amending rule 142 of the CGST Rules and issuing a circular to establish a mechanism for adjusting an amount paid in response to a demand through FORM GST DRC-03. This adjustment would be against the pre-deposit required for filing an appeal.
- **ITC claim-related**
  - Extension of Time limit u/s 16(4) for initial years: The time limit to avail ITC for invoices or debit notes filed up to 30.11.2021 (applicable for fiscal years 17-18 to 20-21) will be deemed to be 30.11.2021
  - Relaxation for claim of ITC where cancellation of GST registration is revoked: Retrospective amendment to be brought to ensure ITC claim is protected provided the registered persons files returns within 30 days of revocation of cancellation of registration.



- **Procedure/ return filing-related**

- Changes in GSTR-1: Taxpayers will now be able to add or amend particulars of GSTR-1 for the current tax period or Invoice Furnishing Facility (IFF) for the first two months of the quarter before filing GSTR-3B.
- Reporting B2C supplies: The threshold for reporting interstate B2C supplies invoice-wise in GSTR-1 will be reduced from Rs. 2.5 lakh to Rs. 1 lakh.
- Revised GSTR-4 due date: Composition taxable persons will now be able to file GSTR-4 up to 30<sup>th</sup> June (from FY 2024-25 onwards).
- TCS Rate reduction: Electronic Commerce Operators (ECOs) will now collect TCS at 0.5% (0.25% each under CGST and SGST/UTGST) on net taxable supplies.
- Compulsory GSTR-7 filing: GSTR-7 would be required to be filed even if no TDS is deducted, with no late fee for nil filing.
- Exemption from GSTR-9/9A: Taxpayers with an aggregate annual turnover up to Rs. 2 crores will be exempt from filing annual returns in GSTR-9/9A for FY 2023-24.
- Change in calculation of interest amount for delayed filing of Form GSTR 3B: Rule 88B will be amended to provide that when an amount is available in the Electronic Cash Ledger on the due date of filing of Form GSTR 3B and such balance is debited while filing the said return, then such amount shall be excluded for computing the interest payable.

- **Refund-related**

- Refund of additional Integrated Tax (IGST) paid on account of upward revision in price: A mechanism will be prescribed for claiming refund of additional IGST paid on account of upward revision in price of the goods subsequent to their actual export.
- Curtailing refund where export duty is payable: Refund shall not be payable in respect of goods, which are subjected to export duty irrespective of whether the said goods are exported with/without payment of taxes and such restrictions would be applicable even in case of supplies to SEZ units.

- **Miscellaneous**

- Insertion of Section 11A in CGST Act: A new Section 11A in CGST Act will be introduced to give powers to the Government, on the recommendations of the Council, to allow regularization of non-levy or short levy of GST, where tax was being short paid or not paid due to common trade practices.
- Bio-metric based Aadhaar authentication: Biometric-based Aadhaar authentication of registration applicants on pan-India basis shall be initiated in a phased manner.
- Retrospective amendment in transition ITC provisions: Retrospective amendment will be introduced for allowing ITC-related invoices pertaining to services provided before 30.06.2017 and where such invoices were received by ISD before such date.
- Various recommendations for rationalizing GST rates on goods and services, including new exemptions were announced in the press-release.

*The said Press release dated 22.06.2024 can be accessed by clicking on the link [here](#).*



**B. Recent Decision from the Judiciary:**

**Category: Updating details in GST registration**

**1. Space 3 interiors vs. State Tax Officer [2024-TIOL-1069-HC-KERALA-GST]**

**Background facts:**

The petitioner challenged the order issued under Section 73(9) of the CGST Act for the reason that they had not received the notice issued by the Department. The petitioner had closed their shop in 2020 but failed to update the same on the GST portal.

**Key Issue Raised:**

Whether non-receipt of notice can be a valid ground to claim relief under violation of principles of natural justice despite old address mentioned on the GST portal?

**Gist of the Decisions:**

The Hon'ble HC held that it was the petitioner's responsibility to furnish the address for communication to the Department, including amendments to such address, if any. The tax officers cannot be blamed for sending notices to the address provided in the GST registration. The HC refused to set aside the order on the grounds of violation of principles of natural justice because correct address for communication was intimated to the Department.

**SBGCO comments:**

The above decision serves as a crucial reminder for taxpayers across India to regularly update their GST registration details. Changes to the place of business (principal and additional), details of promoters/partners/directors, and authorized personnel should be promptly updated on the portal within 15 days of the change to ensure compliance with the law.

**Category: E-way bill**

**2. Nikita Singhania vs. Asst. Commissioner of State Tax [2024-TIOL-1041-HC-KOL-GST]**

**Background facts:**

The vehicle broke down in the middle of the night and hence, the goods were loaded in another vehicle. The transporter could not update the E-way bill with new vehicle details since the change of vehicle happened in the middle of the night.

**Key Issue Raised:**

Whether the Order confirming imposition of tax and penalty on the ground that the goods were being transported with incorrect vehicle details is valid?

**Gist of the Decisions:**

The Hon'ble HC observed that apart from vehicle details, there was no discrepancy observed by the respondent in the documents and goods being transported by the petitioner. The vehicle broke down in the night and the new vehicle with goods reached the destination around 6.20 am where it was detained by the respondent.

Considering the peculiar situation of the present case, the transporter was unable to update the vehicle details before the same was detained. Hence, it could not be said that there was any intention to evade any tax to invoke the provisions of the CGST Act and imposed tax and



penalty. Hence, the HC set aside the Order and ordered refund of the amounts paid to the petitioner.

**SBGCO comments:**

High Court decisions, particularly in E-way Bill cases, should be regarded as exceptions rather than precedents. These rulings are often based on the unique facts of each case and cannot be universally applied. For instance, although the aforementioned decisions overturned penalties for not updating vehicle details, it's important to note that the events occurred in the middle of the night. Therefore, as cautious taxpayers, it is essential to ensure full compliance with all legal provisions, especially those related to the E-way Bill. The adjudication process is highly time-sensitive, with officers closely scrutinizing for any minor infractions to detain vehicles on the road.

**Category: Refund and procedural rules**

**3. Little Brain Works Pvt Ltd vs. Union of India [2024-TIOL-999-HC-AP-GST]**

**Background facts:**

Petitioner filed the refund application for FY 2018-19 but failed to submit LUT online for FY 2018-19. A deficiency memo was issued against the refund application stating that the application was incomplete (LUT was missing). The petitioner could not file the LUT application on the common GST portal since the said window to file the same had closed.

**Key Issue Raised:**

Can LUT be allowed to be filed manually and failure to submit LUT online can be waived?

**Gist of the Decisions:**

The Hon'ble HC observed that the rules of procedure are for effective and timely redressal of the grievance and not for destroying the rights or to defeat the legitimate claims. Without going into the merits of the claim of refund, the HC held that refund cannot be denied for portal related reasons. The HC ordered the respondents to accept the LUT manually and, if all deficiencies are removed, then process the refund application on merits.

**SBGCO comments:**

A minor procedural error, such as failing to file the LUT within the designated period, can result in significant loss of resources, time, and effort for the taxpayer. Although relief was eventually granted by the High Court, the refund application for FY 2018-19 remained unresolved for nearly four years. Therefore, it is crucial for vigilant taxpayers to methodically follow all procedures, particularly those related to online portals and time-sensitive processes.



### C. GST Compliance chart for July 2024

S N	Due Date	Form	Period	Periodicity	Special Remarks
1.	10.07.2024	GSTR - 7	June 2024	Monthly	To be filed by those who are required to deduct TDS under GST
2.	10.07.2024	GSTR - 8	June 2024	Monthly	To be filed by those who are required to collect TCS under GST
3.	11.07.2024	GSTR - 1	June 2024	Monthly	Taxpayers filing GSTR - 1 monthly
4.	13.07.2024	GSTR - 5	June 2024	Monthly	To be filed by a non-resident foreign taxpayer registered in GST
5.	13.07.2024	GSTR - 6	June 2024	Monthly	To be filed by an ISD
6.	13.07.2024	GSTR - 1	April 2024 to June 2024	Quarterly	To be filed by those under QRMP Scheme
7.	18.07.2024	CMP - 08	April 2024 to June 2024	Quarterly	To be filed by Composition Dealer (Payment of Self-assessed tax)
8.	20.07.2024	GSTR - 3B	June 2024	Monthly	To be filed by Taxpayer filing monthly GSTR 3B
9.	20.07.2024	GSTR - 5A	June 2024	Monthly	To be filed by non-resident Online Information and Database Access or Retrieval (OIDAR) services provider
10.	22.07.2024	GSTR - 3B	April 2024 to June 2024	Quarterly	To be filed by those under QRMP Scheme (#)
11.	24.07.2024	GSTR - 3B	April 2024 to June 2024	Quarterly	To be filed by those under QRMP Scheme (\$)

(#) 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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