



# **SBGCo Connect**

## **August 2024**

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Greetings to all our readers!

As August begins, the air fills with the spirit of celebration, not only due to the upcoming festivities but also because India completes 77 years of independence. We take this opportunity to extend our heartfelt wishes to all our fellow countrymen through this newsletter. Happy 78th Independence Day, Jai Hind!

As we move into the second half of this calendar year, it is crucial for businesses to focus on GST year-end compliance. This period is essential for ensuring that all financial details are in order and that all necessary filings are completed accurately and on time.

Taxpayers must prioritize the reconciliation of their Revenue and Input Tax Credit (ITC) details. It is important to meticulously compare the records to ensure that all reported figures match and there are no discrepancies. Any ITC mismatches should be promptly communicated to the relevant suppliers so they can take the necessary corrective actions. Additionally, taxpayers should be vigilant in addressing any communications received from customers to ensure that all concerns are resolved efficiently. Effect of both these communications should be considered in GSTR 1 and GSTR 3B filed on or before 30<sup>th</sup> November (i.e., returns for the month of October)

The preparation for filing Form GSTR 9 (Annual Return) and Form GSTR 9C (Reconciliation Statement) should also begin in earnest. These forms remain unchanged from the previous financial year, which means that taxpayers can utilize their previous years' experience to streamline the preparation process.

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 August 2024](#)

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

Team SBGCo



**A. What's New?**

**I. Notifications issued during the month**

- **Changes in GST rate for supply of certain goods**

*(Notification No. 02/2024-CT (Rate) dated 12.07.2024 w.e.f. 15.07.2024)*

Goods	HSN	Revised GST Rate
Cartons, boxes and cases of, – (a) corrugated paper or paper board; or (b) non-corrugated paper or paper board”;	4819 10 & 4819 20	12%
Milk cans made of Iron, Steel, or Aluminium	7310, 7323, 7612, or 7615	12%
Solar cookers	7321 or 8516	12%
<b>Parts of</b> ‘agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery’	8436	12%

- **Change in the scope of the expression “pre-packaged and labelled”**

*(Notification No. 02/2024-CT (Rate) & 03/2024 – CT (Rate) dated 12.07.2024 w.e.f. 15.07.2024)*

In notification nos. 01/2017- Central Tax (Rate) & 02/2017-Central Tax (Rate), both dated 28.06.2017, it has been clarified that the expression “pre-packaged and labelled” shall NOT include the supply of agricultural farm produce in package(s) of commodities containing a quantity of more than 25 Kgs or 25 litres.

- **Addition of services in the exemption list of services**

*(Notification No. 04/2024-CT (Rate) dated 12.07.2024, w.e.f. 15.07.2024)*

The following services have been included in the list of exemptions w.e.f. 15.07.2024:

- Outward supplies made by Ministry of Railways such as sale of platform tickets, facility of retiring rooms/ waiting rooms, cloak room services and battery-operated car services
- Services provided by one zone/ division of railways to another zone/ division
- Supply of services by SPVs to Ministry of Railways (Indian Railways) by way of allowing Indian Railways to use infrastructure built and owned by them during the concession period against consideration and maintenance services supplied by Ministry of Railways (Indian Railways) to SPVs
- Supply of accommodation services having value of supply less than or equal to 20,000/- per month per person and such accommodation service is supplied for a minimum continuous period of 90 days.



## II. Circulars issued during the month

- **Mechanism for refund of additional IGST paid on account of upward revision in price of the goods subsequent to exports**

*(Circular No. 226/20/2024-GST dated 11.07.2024)*

- Currently, there exists no mechanism for processing of refunds of any additional integrated tax paid on account of upward revision in price of goods, subsequent to exports by proper customs officer. Hence, exporters are suggested to file an application for refund of such additional IGST paid in FORM GST RFD-01 electronically on the common portal, which shall be processed by their jurisdictional officer. The modalities of the application are under:
  - Refund application FORM GST RFD-01 to be filed under the category “Any other” with remarks “Refund of additional IGST paid on account of increase in price subsequent to export of goods”
  - The amount of IGST refund sanctioned by the customs under rule 96(3) of CGST Rules will also be made available to jurisdictional GST officers by GSTN
  - Minimum refund amount - Rs. 1,000/-
  - Time limit to claim refund - two years from the relevant date as per Explanation 2(a) of Section 54
  - Documentation required to be submitted:
    - Copy of shipping bill
    - Copy of Original invoice
    - Copy of contract/other document evidencing upward price revision
    - Copy of supplementary invoices/ debit notes
    - Proof of payment of additional IGST and applicable interest and reporting such transaction in GST returns
    - Proof of receipt of additional remittance
    - A certificate of a practising chartered accountant or a cost accountant
    - Statement 9A and 9B of Form GST RFD-01
  - In cases where there is a downward revision in the price of goods, the exporter is expected to deposit the refund of the IGST received proportionately.

- **Mechanism for the claim of refund by Canteen Stores Department (under Ministry of Defence) is provided under Circular No. 227/21/2024-GST dated 11.07.2024 read with Notifications No. 06/2017-Central Tax (Rate) dated 28.06.2024.**

- **Clarification regarding applicability of GST for various services:**

*(Circular No. 228/22/2024-GST dated 15.07.2024)*

Service	Clarification
Certain outward supplies made by Ministry of Railways such as sale of platform tickets, facility of retiring rooms/ waiting rooms,	The said services shall be exempted from levy of GST in line with the notification 04/2024 - Central Tax (Rate) dated 12.07.2024 w.e.f. 15.07.2024. Past period transactions between





Service	Clarification
cloak room services and battery-operated car services	20.10.2023 to 14.07.2024 have been regularized on “as is-where is” basis.
Supply of services by SPVs to Ministry of Railways (Indian Railways) by way of allowing Indian Railways to use infrastructure built and owned by them during the concession period against consideration and maintenance services supplied by Ministry of Railways (Indian Railways) to SPVs	
Statutory collections made by the Real Estate Regulatory Authority (RERA)	The said activity is covered under the Sr. No. 4 of the exemption notification No. 12/ 2017-CT(R) dated 28.06.2017.
Incentive amount shared by acquiring banks with other stakeholders in the digital payment ecosystem under the notified Incentive Scheme for promotion of RuPay Debit Cards and low-value BHIM-UPI transactions	<p>The incentive amount given by the Ministry of Electronics and Information Technology to acquiring bank is treated as subsidy and thus, excluded from value for supply.</p> <p>When this incentive amount received by the acquiring bank is further distributed in the proportion and manner as decided by NPCI with other stakeholders, it shall be considered in the nature of a subsidy in the hands of the other stakeholders. Hence, the same would not be treated as a taxable supply.</p>
Re-insurance services of certain exempted insurance services at SI. No. 35, 36 & 40 of the exemption notification was introduced from a subsequent date in 2018. What is the treatment required to be given for the period 01.07.2017 till the date of grant of exemption?	Services by way of reinsurance of the insurance schemes specified in SI. Nos. 35 36 and 40 of notification No.12/2017-CT(R) dated 28.06.2017 are regularized for the period from 01.07.2017 till the date of grant of exemption on “as is where is” basis.
Does reinsurance in Entry 36A of exemption notification No. 12/2017- CT(R) dated 28.06.2017 includes 'retrocession'?	<p>Yes, 'reinsurance' as mentioned in SI. No. 36A includes 'retrocession' services.</p> <p>‘Retrocession’ means a re-insurance transaction whereby a part of assumed reinsured risk is further ceded to another Indian Insurer or a Cross Border Re-insurer.</p>
GST liability for hostel accommodation, service	W.e.f. 15.07.2024, the supply of accommodation services where the value of



Service	Clarification
apartments/ hotels booked for longer period	supply is less than or equal to Rs.20,000 per person per month & the accommodation services are provided for at least a continuous period of 90 days, the same is exempted vide the notification 04/2024 - Central Tax (Rate) dated 12.07.2024. The circular recommends that supply of SUCH accommodation services shall be regularized on “as is where is” basis for the period from 01.07.2017 to 14.07 .2024.

- **Clarification regarding GST rates & classification for goods:**

*(Circular No. 229/23/2024-GST dated 15.07.2024)*

Goods	Clarification
Solar cookers that work on dual energy source	Heading 8516 - GST Rate of 12% [SI. No. 201A of Schedule II - notification No. 1/2017-CT (R)]
Fire Water Sprinklers	GST Rate of 12% [SI. No. 195B of Schedule II - notification No. 1/2017-CT (R)]  Past periods are regularized on “as is where is basis”.
GST rate on parts of Poultry-keeping machinery	HSN - 3436 91 00 - GST Rate of 12% [SI. No. 199 of Schedule II - notification No. 1/2017-CT (R) read with notification No. 2/2024-Central Tax (Rate) dated 12.07.2024]  Past periods are regularized on “as is where is basis”.
What is the scope of ‘pre-packaged and labelled’ for supply of agricultural farm produce?  [Notification Nos. 01/2017-Central Tax (Rate) & 02/2017-Central Tax (Rate), both dated 28.06.2017]	‘Pre-packaged and labelled’ shall exclude the supply of agricultural farm produce in package(s) of commodities containing quantity of more than 25 Kgs or 25 litres. Hence, supply of agricultural farm produce in package(s) containing quantity of more than 25 Kgs or 25 litre will not attract GST of 5%.  Past periods are regularized on “as is where is basis”. The above changes are in line with the amendments carried out in notifications issued on 12.07.2024.
Supplies of pulses and cereals (put up in a unit container and bearing a registered brand name	The said supply of goods has been exempted after 17.07.2022. For prior periods up to 17.07.2022, the Circular clarifies that the



Goods	Clarification
and/or bearing a brand name on which an actionable claim or enforceable right in a court of law is available) made to or by agency engaged by Government for distribution of such goods at free of cost or at subsidized rate to the eligible beneficiaries- such as weaker sections of the society.	<p>Department would allow the same on “as is where is basis” provided the following conditions are fulfilled:</p> <p>A. supplier furnishes certificate from appropriate officer that he was engaged by the Government where the ultimate goods were intended for distribution at free of cost or at subsidized rate under an approved scheme. The certificate has to be submitted within 180 days of issuance of this circular to the jurisdiction officer</p> <p>B. ITC, if availed, must be reversed within 180 days, if the supplier is intending to take the benefit regularization.</p>

*Regularization under “as is where is” basis means – for the old period/ specified period, the Department would not challenge the tax position/ classification adopted by the taxpayer for the specified supply of goods and/ or service.*

### III. GSTN Advisory issued

- **Registration related:**

- Increase in permissible document size for upload:

A lot of inconvenience was faced by taxpayers for uploading Electricity bill, property tax receipt copies, etc in registration application because the permissible upload size was 100kb for the said supporting documents. The limit has been increased as per table below:

Nature	Document Name	Old size limit	New size limit
Proof of Principal Place of Business and Additional Place of Business JPEG / PDF	1. Municipal Khata Copy 2. Electricity Bill 3. Consent Letter 4. Property Tax Receipt	100Kb	500 kb

- Biometric-Based Aadhaar Authentication and Document verification (Uttarakhand):  
Based on data analysis and risk parameters, certain taxpayers shall be required to go through Biometric-Based Aadhaar Authentication and taking a photograph with verification of original documents. This functionality is developed by GSTN which includes the following process:



- The applicant shall receive either a Link for OTP-based Aadhaar Authentication OR a link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification)
- At the time of visit to GSK, the applicant is required to carry the following details:
  - a copy of the appointment confirmation e-mail
  - the details of jurisdiction as mentioned in the intimation e-mail
  - Aadhaar Card and PAN Card (Original Copies)
  - the original documents that were uploaded with the application
- The biometric authentication and document verification will be done at the GSK for all the required individuals as per the GST application.

This functionality has been made available in the state of Uttarakhand, Jammu & Kashmir and West Bengal only. The said process shall be rolled out in other states as well in due course.

- **Form GSTR 1A related advisory:**

- Form GSTR 1A shall be available to all the taxpayer from August 2024 (i.e., GST returns of July 2024 onwards)
- It is an OPTIONAL facility, which can be filed once per month.
- The add/ amend changes made in Form GSTR 1A shall be reflected in FORM GSTR-3B for the same tax period for the supplier.
- At the recipient end, supplies declared or amended by the suppliers shall be available in FORM GSTR-2B generated for the next tax period.
- Form GSTR 1A shall be opened for filing after filing of Form GSTR 1 or due date of filing of Form GSTR 1, whichever is later.
- Similarly, for QRMP taxpayers, Form GSTR 1A will be made available quarterly basis as per same timelines as above. Any correction in supply reported in IFF can also be made in this Form GSTR 1A.
- Form GSTR 1A shall NOT permit amendment of GSTIN of customers reported in Form GSTR 1. GSTIN-related amendment shall be part of amendment details of next Form GSTR 1 only.

*The said advisories can be accessed by clicking on the link [here](#).*





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

**Category: Appellate adjudication process**

**1. Shiva Chemicals vs. Asst. Commissioner [2024-TIOL-1247-HC-KOL-GST]**

**Background facts:**

The petitioner's ITC was disallowed by the assessing officer. The said Order was challenged before the appellate authority along with EWB copies, Bank Statements, invoice copies, etc for the relevant transactions. However, the appellate authority did not consider the submissions and rejected the appeal on the same grounds.

**Key Issue Raised:**

Whether the Order issued by the appellate authority is just and acceptable?

**Gist of the Decisions:**

The Hon'ble HC held when the appellant submitted the various documents viz., EWB copies, Bank Statements, invoice copies, etc., the appellant has discharged his primary burden of establishing the claim for credit. Hence, the appellate authority cannot reject the appeal on the ground that "transport and other documents" are absent. Hence, the appellate authority is required to highlight which additional documents is sought by him to check the veracity of receipt of physical goods if the said documents are not sufficient. The HC remanded back the matter to the appellate authority with the instruction to allow the claim of credit if there was no discrepancy found in EWB copies, Bank Statements, invoice copies and party ledger.

**SBGCO comments:**

The above decision highlights the importance of ensuring appropriate records are maintained by the taxpayers to challenge the allegations of "non-receipt" of goods/service. Additionally various other checks and control measures can be adopted by taxpayers (based on their business model) which will ensure that such allegations can be appropriately responded to. Further, taxpayers must keep in mind that documentation is the strongest guard against any department allegations.

**Category: Taxpayer's responsibility**

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

**Background facts:**

The appellant received SCN on 21.09.2023. The details of personal hearing such as time and date were not mentioned on the SCN. At the same time, neither any action was taken against the SCN nor any reply/adjournment request was submitted by the appellant. On 16.12.2023, the order was passed confirming the demand proposed in the SCN.

**Key Issue Raised:**

Whether the Order confirming imposition of tax, interest and penalty is valid (even when personal hearing details of time and date are missing in the SCN but taxpayer received the notice and did not take any action)?



**Gist of the Decisions:**

The Hon'ble HC observed that once the receipt of SCN is not challenged by the appellant, it is the duty of the appellant to file his reply to the show cause notice or communicate his need for adjournment or additional time to reply. If the appellant chose to ignore the SCN, then plea regarding denial of opportunity of hearing and violation of principles of natural justice cannot be raised subsequently. The Writ petition was dismissed.

**SBGCO comments:**

The taxpayers must ensure that any communication from the department, be it an enquiry letter or a SCN or an Order, the same should not be left unanswered/ unchecked. Once the same is received, legal advice should be sought as to how to address the same at the earliest. In case additional time is required or adjournment is being sought, the same should be communicated well in advance and taxpayers must endeavour to ensure the communications from department are duly responded.

**Category: Adjudication process**

**3. Greentech Enterprises vs Commissioner of CGST [(2024) 20 Centax 599 (Del.)]**

**Background facts:**

The SCN was issued to the petitioner stating that GST registration was proposed to be cancelled for the reason of “*Non-compliance of any specified provisions in GST Act or Rules made thereunder.*” Thereafter, order cancelling GSTIN of assessee was issued on ground that no reply had been received.

**Key Issue Raised:**

The said action of cancellation of GST was challenged before the HC on the grounds of the same being arbitrary.

**Gist of the Decisions:**

The Hon'ble HC set aside the said order, on the grounds that the SCN was not clear as to which provisions of the GST Act or Rules were violated. The HC held that for any taxpayer to be able to reply to any SCN, it is important that they should be aware of what violation is being alleged. Any notice that does not highlight the provisions of law which are alleged to be violated by the taxpayer is void. Further, action cannot be taken on the ground that reply was not received from the taxpayer. The Order must be reasoned which highlights the default and such default should be the reason for cancellation – not non-submission of reply.

**SBGCO comments:**

The above decision clearly highlights the importance of the key and relevant contents of any SCN which make it capable of eliciting a meaningful response from the taxpayer. As taxpayer, one must ensure that a response (even if the response states that violations have not been specified) is given to notices received from the department. Such response demonstrates the intention of the taxpayer to comply which would further strengthen their subsequent submissions in this regard.



**Category: SCN for new provision invoking extended period**

**4. Hyundai Motors India Ltd vs. Commissioner of GST and C. Ex., Chennai [2024-TIOL-702-CESTAT-MAD]**

**Background facts:**

The issue pertains to October 2010 to July 2011 when reversal of common credit for trading activity was introduced for the first time in the cenvat credit provisions w.e.f. 01.04.2011. The appellant was engaged in the manufacture of Cars and also trading activity of importing and selling the said cars. The appellant took credit for all input services including some common input services. SCN was issued invoking extended period of limitation.

**Key Issue Raised:**

Can SCN be issued invoking extended period of limitation, in such cases?

**Gist of the Decisions:**

The Hon'ble Tribunal held that unless any positive act is established against the appellant with regard to suppression of facts and the period being transitional period, the invocation of extended period is not justified. Hence, the SCN was set aside on the grounds of it being time-barred.

**SBGCO comments:**

It is crucial to ensure that during any transition, whether it involves changes in laws or provisions, taxpayers must adhere to the correct and updated regulations in their returns and compliances. The highlighted case underscores the importance of demonstrating the absence of suppression or willful default during transitional phases. Only by doing so can taxpayers benefit from the non-invocation of the extended period for such compliances.



**C. GST Compliance chart for August 2024**

<b>S N</b>	<b>Due Date</b>	<b>Form</b>	<b>Period</b>	<b>Periodicity</b>	<b>Special Remarks</b>
1.	10.08.2024	GSTR - 7	July 2024	Monthly	To be filed by those who are required to deduct TDS under GST
2.	10.08.2024	GSTR - 8	July 2024	Monthly	To be filed by those who are required to collect TCS under GST
3.	11.08.2024	GSTR - 1	July 2024	Monthly	Taxpayers filing GSTR - 1 monthly
4.	13.08.2024	GSTR - 5	July 2024	Monthly	To be filed by a non-resident foreign taxpayer registered in GST
5.	13.08.2024	GSTR - 6	July 2024	Monthly	To be filed by an ISD
6.	13.08.2024	IFF	July 2024	Monthly	To be filed by those under QRMP Scheme (optional)
7.	20.08.2024	GSTR - 3B	July 2024	Monthly	To be filed by Taxpayer filing monthly GSTR 3B
8.	20.08.2024	GSTR - 5A	July 2024	Monthly	To be filed by non-resident Online Information and Database Access or Retrieval (OIDAR) services provider
9.	25.08.2024	PMT - 06	July 2024	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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