



SBGCo Connect September 2024

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Greetings to all our readers!

As we approach the final phase of compliance for the Financial Year 2023-24, we face a series of tasks and activities essential for GST compliances. The key activities along with their due dates are summarized as follows:

Activities	Deadline
Impact of Annual Ratio under Rule 42 of the CGST Rules, 2017	GSTR 3B of September 2024
Reversal of ITC to the extent of ITC claimed against vendors who have not filed Form GSTR 3B for FY 2023-24 under Rule 37A of CGST Rules, 2017	
Claiming ITC pertaining to invoices dated FY 2023-24, not claimed until now	GSTR 3B of October 2024 filed on or before 30 th November 2024
Issuing a credit note against invoices pertaining to FY 2023-24	GSTR 1 of October 2023 filed on or before 30 th November 2024
Amendment in any invoice/ credit note/ debit note pertaining to FY 2023-24	
Annual Return (GSTR 9/9A) and Reconciliation statement (GSTR 9C) for FY 2023-24	31 st December 2024

The GST Council will meet next on September 9, 2024, to discuss and decide on several important issues. As with the previous meeting in July 2024, many industries will be closely monitoring the outcomes of this meeting to see what decisions are made.

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. [Recent Advance Rulings and analysis of the same](#)
- D. [GST Compliance Chart for the month of September 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

- **Revamped provisions for Input Service Distributor (ISD) to be effective from 01 April 2025.**
- The CBIC had amended the definition of ISD and related provisions via Sections 12 and 13 of the Finance Act, 2024 (8 of 2024).
- It is now notified that 01st April 2025 shall be date of implementation of such revamped provisions.
- The amendment and the summary thereof can be accessed by our readers by clicking [here](#).

SBGCO Comments

The Government introduced revised provisions for ISD in February 2024, followed by amendments to the CGST Rules related to ISD in July 2024. These changes are scheduled to take effect on 1st April 2025. The Government's intention is to provide businesses with sufficient time to align their processes and establish the necessary mechanisms for implementing the new ISD provisions. Businesses with multi-state registrations should proactively apply for ISD registrations and prepare to comply with the amended provisions by the implementation date.

Notification no. 16/2024 - Central Tax dated 06.08.2024.

II. Instructions issued during the month

- **2nd Special Drive against suspicious and fake firms by CBIC**
- Period of the special drive: 16th August 2024 to 15th October 2024
- Purpose: To detect suspicious/ fake GSTINs and to conduct requisite verification and further remedial action to weed out these fake billers from the GST eco-system and to safeguard Government revenue
- The instruction manual lists down the identification process, action to be taken by the field officers and the feedback mechanism to be followed.

SBGCO Comments

We advise that the taxpayers should ensure the following:

- Display of GST Certificate: Ensure GST registration number and certificate are clearly displayed at office entrance/ reception area.
- Premises registration: Ensure your place of businesses are updated on the GST portal, especially if the place is non-operational or surrendered.
- Be prepared to explain business activities: Clearly explain business operations, inputs, and outputs. Keep a note ready on business activities.



- Verify the officer's identity: Ensure the visiting officer has a valid ID and authorization letter.
- Take notes and records: Document the discussion, documents provided, and officer's observations

Instruction No. 02/2024-GST dated 12.08.2024.

III. Portal updates

• Furnishing valid Bank account details on GSTR 1 portal

- Effective September 1, 2024, the GSTN network has announced that registered persons who have not updated their valid bank account details in their GST registration will be unable to file their GSTR-1 or IFF returns.
- It is important to note that many taxpayers initially updated their correct bank account details during the transition to GST in 2017. However, some have since failed to update their bank information, especially when accounts were closed or merged with other PSU banks, resulting in new account numbers and IFSC codes.
- The Bank account status can be checked by following the below path after logging into the GST portal:

DashBoard → My Profile → Bank Account Status

- The GSTN portal has advised that if the Bank account status is not 'validated', then the registered taxpayer is expected to update their bank account details in "Non - Core Fields" of the registration tab on the GST portal.

The said GSTN advisory dated 23.08.2024 can be accessed by clicking on the link [here](#).

• Biometric-Based Aadhaar Authentication and Document Verification for (1) Dadra and Nagar Haveli and Daman and Diu and (2.) Chandigarh:

- Certain taxpayers in the above-mentioned UTs, identified through data analysis and risk parameters, will be required to undergo Biometric-Based Aadhaar Authentication, including photograph capture and verification of original documents at the time of applying for fresh GST registrations. This process is managed by the GSTN and involves the following steps:
 - a. The applicant will receive a link for either OTP-based Aadhaar Authentication or for booking an appointment. The message will include details of the designated GST Suvidha Kendra (GSK) and jurisdiction for Biometric-Based Aadhaar Authentication and document verification.
 - b. During the visit to the GSK, the applicant must bring:
 - A copy of the appointment confirmation email.
 - Details of the jurisdiction as mentioned in the notification email.
 - Original Aadhaar Card and PAN Card.
 - Original documents that were uploaded with the application.
- Biometric authentication and document verification will be conducted at the GSK for all individuals as required by the GST application.



- The above process has already been rolled out for Uttarakhand, Jammu & Kashmir and West Bengal. The Union Territories of Dadra and Nagar Haveli and Daman and Diu and Chandigarh are newest addition to the said list.

The said GSTN advisory dated 24.08.2024 can be accessed by clicking on the link [here](#).

- **RCM Liability/ ITC statement**

- To improve the accuracy and transparency of RCM transactions, a new “RCM Liability/ITC Statement” has been introduced on the GST Portal. This statement will capture the RCM liability reported in Table 3.1(d) of GSTR-3B and the corresponding ITC claimed in Tables 4A(2) and 4A(3) for the return period. It applies from the August 2024 tax period for monthly filers and the July-September 2024 period for quarterly filers.
- What is required to be reported as ‘Opening Balance in RCM ITC Statement’:
 - a. If a taxpayer has paid excess RCM liabilities but hasn't claimed the corresponding ITC, they should enter the excess as a positive opening balance in the RCM statement.
 - b. Conversely, if a taxpayer has claimed excess RCM ITC without paying the corresponding liability, they should report the excess as a negative opening balance.
 - c. For RCM ITC that was reversed in previous periods, it can be reclaimed, if eligible, through Table 4A(5) of GSTR-3B, but not through Tables 4(A)2 or 4(A)3. This reclaimed ITC should NOT be reported as an opening balance in the RCM statement.
- The “opening balance” in the RCM statement can be declared until 31.10.2024. Taxpayers have until 30.11.2024, to correct any errors in the opening balance, with three opportunities provided for rectification.

The said GSTN advisory dated 23.08.2024 can be accessed by clicking on the link [here](#).



B. Recent Decision from the Judiciary:

Category: Procedural Lapses

1. Zydus Takeda Healthcare Pvt Ltd vs. Union of India [2024-TIOL-1444-HC-DEL-CUS]

Background facts:

Exporters are required to declare their intent to claim benefit under MEIS at the time of generating shipping bills – ‘Y’ for Yes and ‘N’ for No under the “Reward” column. The petitioner missed to report their intention to claim benefit under MEIS in the original shipping bills. On realizing the same, the petitioner rectified their inadvertent error and approached the Policy Relaxation Committee (PRC) to re-validate the shipping bills so as to enable them to re-apply for MEIS incentives for all the shipping bills. The PRC refused to consider the appellant’s request on the grounds that the revised shipping bills did not reflect on the automated EDI system.

Key Issue Raised:

Merely a non-declaration of an intention to claim benefit of MEIS in the shipping bills can result into rejection of such benefit altogether, even though such deficiency was cured?

Gist of the Decisions:

The Hon’ble High Court held that it is important to check whether the petitioner has satisfied all the requirements to claim benefits under MEIS which were due to them. If yes, the said benefits cannot be denied on hyper-technical grounds, purely on account of an inadvertent and bona fide error (such as not declaring the intent to claim MEIS benefits on shipping bills/ non reflection of shipping bills in the automated EDI system).

The HC further held when the petitioners took necessary steps to ensure that the deficiency is cured, their request should not be rejected. The HC ordered the respondents to consider the Petitioner's MEIS claims electronically/ manually and process the application

SBGCO comments:

The Department always looks to take the easiest route to deny any rightful benefit that accrues to the taxpayer. Despite numerous rulings that distinguish between a mere 'procedural lapse' and the failure to meet an essential condition for an exemption or benefit, the Department tends to classify all errors under the latter, more severe category.

It is, therefore, imperative for taxpayers to meticulously follow every procedure related to claiming exemptions or availing benefits. Even minor errors can lead to prolonged litigation, consuming significant resources—both time and money—for all parties involved.

Category for remaining cases: Basic requirements of an Order and/or an SCN

2. Ketan Stores vs. the State of Gujarat [2024-TIOL-1423-HC-AHM-GST]

Background facts:

The petitioner received a summary order in Form GST DRC-07 on 13.08.2019 on the GST portal without any copy of the actual order.



Key Issue Raised:

Whether demand can be confirmed and recovery proceedings be initiated on the basis of a summary order uploaded online without the copy of the actual order?

Gist of the Decisions:

The Hon'ble High Court observed that a summary of an order is only issued so as to record the outstanding demand raised in the order passed under the provisions of the GST Act and nothing more. The HC further held that a summary of the order has no value in eye of law without a copy of the order being passed. Hence, in absence of the copy of the detailed order, the HC quashed and set aside the summary order including the attachment of the bank accounts of the petitioner.

SBGCO comments:

It is frivolous that the taxpayers have to knock on the doors of the High Court because there is no copy of the Order which is issued and the department proceeds to attach bank accounts (i.e., initiate recovery proceedings) based on a summary order. Even 5 years after uploading the summary order on the GST portal, the department could not produce the copy of the order passed. The taxpayers are forced to resort to writ petitions in the majority cases only because the tax officers do not follow due process under the law.

Without a copy of the actual order, how is an assessee expected to take decision as to whether the allegations/ demand is correct or whether an appeal needs to be filed against the same. It is a basic requirement that an order must be issued which must be a reasoned one and only then the same is valid and legal in the eyes of the law.

3. Khemka Aviation Pvt Ltd vs. State Tax Officer [2024-VIL-815-DEL]

Background facts:

The petitioner received SCN from department proposing to demand tax on account of claim of alleged inadmissible ITC. The petitioner responded to the SCN with details of ITC claimed. The officer rejected the response of the petitioner by simply stating that the reply is not satisfactory.

Issue Raised:

Whether the officer can reject the submissions of the petitioner without giving any reasons for such an action?

Gist of the Decision:

The Hon'ble High Court, being frustrated with writ petitions filed against unreasoned orders, held that passing an unreasoned order is a fraud on the statute and ought not to be countenanced. The HC observed that such unreasoned orders have been passed only to raise a demand prior to the expiry of the limitation period. The HC stayed the unreasoned order and ordered the affidavits to be filed by the various respondents to relation to orders issued in the last three (3) days of the limitation period.



SBGCO comments:

High Courts in India are overwhelmed with numerous litigations, extending beyond tax-related matters. These courts are expected to deliver high-quality and intellectual tax judgments, not to address basic issues like violation of principles of natural justice. The decision highlighted above reflects a concerning trend where tax officers make decisions without adequately considering the assessee's reply, forcing the assessee to approach the High Courts just to ensure their responses are considered.

4. Greentech Enterprises vs. Commissioner (CGST) [(2024) 20 Centax 599 (Del.)]

Background facts:

An SCN was issued proposing to cancel petitioner's registration for the reason "Non-compliance of any specified provisions in GST Act or Rules made thereunder as may be prescribed." Subsequently, the Department passed order cancelling the GSTIN of assessee on the ground that no reply was received in response to the SCN.

Key Issue Raised:

Whether the department is correct issuing such a SCN and passing the Order thereafter?

Gist of the Decisions:

The Hon'ble High Court held that the SCN did not meet the requisite standard of a SCN. The HC further held that the SCN is not clear as to which provisions of the GST Act or Rules have been violated and as a result, the SCN is incapable of eliciting any meaningful response to the alleged violation. Further, order is also bereft of any reasoning apart from stating no reply has been received to the impugned SCN.

Hence, the Order issued to cancel the GSTIN was set aside and the Department was ordered to restore the GSTIN of the petitioner immediately.

SBGCO comments:

The above decision, highlights the importance of a well-reasoned and well-documented SCN and Order. The SCN must be prescribe as to what is the allegation and which provisions of the law are alleged to be violated. Likewise, the Order should clearly articulate the reasoning behind the conclusion. Issuing a pre-formatted SCN or Order without careful consideration is a flawed adjudication process, and higher forums will not hesitate to challenge such actions.



C. Recent Decisions from Advance Authority

1. Shyama Chatterjee [Order No. 03/WBAAR/2024-25 (West Bengal) = 2024-VIL-145-AAR]

Background facts:

The Applicant is awarded contracts from different local bodies/municipalities for survey, design, drawing, estimate and preparation of comprehensive plan related to water supply schemes, undertaken by those local bodies/municipalities.

Questions raised:

Whether the said services by the Applicant would qualify for exemption in terms of entry number 3 of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017?

Gist of the Ruling:

The AAR studied the scope of contract awarded by different local bodies/municipalities viz., Taki Municipal Area, Ramjibonpur municipal Area, Golaghat division of PHE - Govt of Assam, and Madhya Pradesh Jal Nigam Marydit and noted the following key aspects of the agreements:

- The scope of work doesn't involve any supply of goods and the supply being provided by the applicant is that of 'pure services.'
- Except for Madhya Pradesh Jal Nigam Marydit (which is a PSU), rest all the contracts were awarded by local bodies or state governments.
- The services provided by the applicant for survey, design, drawing, estimate and preparation of comprehensive plan related to water supply schemes application is found to be a matter as listed in the Eleventh and/or Twelfth Schedule in relation to functions entrusted to a Panchayat under article 243G and/or to a municipality under article 243W of the Constitution of India.

The AAR concluded that the applicant can avail the exemption in terms of entry number 3 of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017, except in the case of Madhya Pradesh Jal Nigam Marydit.

SBGCO comments:

The above decision by the AAR is a well-reasoned order. The AAR has thoroughly scrutinized the scope of work of all the contracts presented before them, analysed the conditions for availing the exemption and then reached the conclusion regarding eligibility of the exemption.



D. GST Compliance chart for September 2024

S N	Due Date	Form	Period	Periodicity	Special Remarks
1.	10.09.2024	GSTR - 7	August 2024	Monthly	To be filed by those who are required to deduct TDS under GST
2.	10.09.2024	GSTR - 8	August 2024	Monthly	To be filed by those who are required to collect TCS under GST
3.	11.09.2024	GSTR - 1	August 2024	Monthly	Taxpayers filing GSTR - 1 monthly
4.	13.09.2024	GSTR - 6	August 2024	Monthly	To be filed by an ISD
5.	13.09.2024	IFF	August 2024	Monthly	To be filed by those under QRMP Scheme (Optional)
6.	13.09.2024	GSTR - 5	August 2024	Monthly	To be filed by a non-resident foreign taxpayer registered in GST
7.	20.09.2024	GSTR - 3B	August 2024	Monthly	To be filed by Taxpayer filing monthly GSTR 3B
8.	20.09.2024	GSTR - 5A	August 2024	Monthly	To be filed by non-resident Online Information and Database Access or Retrieval (OIDAR) services provider
9.	25.09.2024	PMT - 06	August 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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