



# INDIRECT TAX NAVIGATOR DEC 2020-VOL 2

**S.K.KANODIA & ASSOCIATES**  
**CHARTERED ACCOUNTANTS**

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# RECENT CASE LAWS

## RECENT CASE LAWS

**HC: Upholds validity of E-way bill for goods delivered but unloaded, quashes detention**

**Hemanth Motors vs. State of Karnataka & Ors.**

**[TS-1081-HC-2020(KAR)-NT]**

Karnataka HC quashes notice and subsequent order of seizure, detention under section 129 of the CGST Act/KGST Act passed by Commissioner Tax Officer (Vigilance) in view of **valid E-way bill in case where the conveyance carrying the vehicles had reached destination but could not be unloaded on same day;**

Notes Rule 138(10) of the CGST Rules which prescribes the validity of an e-way bill with the extension of further period by 8 hours after the expiry;

Lastly, considering that Tax authorities have not contended validity of E-way bills during inspection, points-out Revenue's **"failure to consider the petitioner's case.....provisions of Rule 138[10]"** and holds that the same **resulted in an improper and untenable order:** Karnataka HC

### **SKKA Comments**

*In the above case the department was totally unjustified to detain the goods on the ground that the EWB had expired whereas the goods had already reached the destination and was awaiting unloading. The High court thus has quashed the arbitrary order passed by the department for detention.*

## RECENT CASE LAWS

### **HC: Restores refund proceedings for considered decision, order rejecting claim**

**ABB Global Industries and Services Pvt. Ltd. vs. UOI & Ors.**

**[TS-1080-HC-2020(KAR)-NT]**

Karnataka HC partly allows writ petition to the extent of allowing request for additional time for personal hearing as well as filing objections, thereby, **sets-aside order rejecting refund;**

Addressing Petitioner's response to show-cause notice seeking additional 15 days' time for filing objections, **notes that parties have been unable to point-out prohibition in law against grant of extension of time by The Assistant Commissioner of Central Tax, GST Commissionerate, B'lore (Revenue);**

Consequently, restores the proceedings to Revenue for adjudication by permitting Petitioner to file detailed objections and fix date for personal hearing: Karnataka HC

### **SKKA COMMENTS**

**In the instant case the High Court has given relief to the petitioner whose refund claim was rejected without giving proper opportunity of representation and thus the natural justice was denied to the petitioner. The high court has thus allowed the petition and restored the refund proceedings back to the adjudicating authority.**

## RECENT CASE LAWS

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### HC: Fixation of confiscation/demand order on truck 'failure of natural justice', quashes orders

Ranchi Carrying Corporation vs. State of UP and 2 Ors.

[TS-1079-HC-2020(ALL)-NT]

Allahabad HC sets aside order of confiscation of goods under section 130 of UPGST Act as well as order in FORM MOV-09 [Order of demand, tax, and penalty related to goods] **served through fixation on Petitioner's truck**, on ground of **"failure of natural justice"**; Petitioner submitted that - (i) **service on driver or a fixation of the copy of order on the truck is not one of the methods provided in section 169 of the UPGST Act** (ii) thus, it is clear that the orders were never served and the proceedings were held ex-parte, (iii) it **had submitted requisite documents at the time of appeal, but the Appellate Authority held that as no reply was filed to the notices sent, the grounds taken in the appeal appear to be afterthought and thus the appeal was also dismissed;**

However, perusing Sec. 169 and the impugned order, notes that at no point of time, was the petitioner granted an opportunity of submitting his reply, and holds, **"whenever a manner is prescribed, the thing should be done in that manner alone...Thus, on a plain reading (of the order), a failure of natural justice has been occasioned to the petitioner."**; Accordingly, with liberty to Revenue to conclude proceedings against Petitioner, directs Petitioner to file fresh reply and Revenue to pass orders expeditiously: Allahabad HC

**SKKA COMMENTS-** Another classical case for quashing of proceedings for want of natural justice in proceedings and also modes of service of notice as prescribed under the GST law.



# RECENT NOTIFICATIONS/CIRCULARS

# CBIC Notification No. 91/2020 - Central Tax dated December 14, 2020

**CBIC further extends time-limit for completion/compliance of action by authorities u/s 171**

CBIC notifies further **extension in time limit for completion or compliance u/s 171 of CGST Act [Anti-profiteering measure]** by authorities of any action falling during the period **March 20, 2020 to March 30, 2021 upto March 31, 2021**; Amends Notification No. 35/2020-Central Tax, dated the April 3, 2020 : CBIC Notification

# **GST Policy Wing Circular No.144/14/2020-GST dated December 15, 2020.**

## **CBIC waives recording of UIN on invoices for April, 2020 to March, 2021**

CBIC issues clarification on **waiver from recording of UIN on the invoices** issued by the retailers/suppliers, pertaining to the refund claims from **April 2020 to March 2021**; Adds condition for waiver that the copies of such invoices **must be attested by the authorized representative of the UIN entity and submitted to the jurisdictional officer**; Explains that the waiver has been granted considering that the issue of non-recording of UINs has continued even after March 31,2020: CBIC Circular

### **Note**

With respect to processing of refund claims of UIN entities (Embassy/Mission/Consulate/ United Nations Organizations/Specified International Organizations), CBIC had earlier granted waiver vide **Circular No. 63/37/2018 - GST dated September 14, 2018** r/w Corrigendum.

# GST PORTAL UPDATES

## GST PORTAL UPDATES

### Auto population of details in Form GSTR-3B from Form GSTR 1 & GSTR 2B

#### Auto Populated details in Form GSTR 3B:

Now, auto-population of system computed details in Form GSTR-3B, has been enabled for taxpayers (filing their Form GSTR-I on monthly basis), from **November 2020 Tax Period onwards**. The same will be done based on the following:

a. **Liabilities in tables-3.1 & 3.2 of Form GSTR-3B** (except Table-3.1 (d) pertaining to inward supplies liable to reverse charge), are computed by the system on the basis of details of outward supplies as filed in Form GSTR-I for the tax period

b. **Input Tax Credit (ITC) details** and details of inward supplies liable to reverse charge, to be reported in Tables-4 and 3.1 (d) respectively, are computed as per system generated **Form GSTR-2B for the tax period**

For detailed advisory please [CLICK HERE](#).

## GST PORTAL UPDATES

### **GSTR-9 of FY 2019-20 is available now**

Facility to file annual return in **Form GSTR-9 for FY 2019-20 is now available**. The Form is enabled for taxpayers **whose table 8A computation has been completed**. Computation of the table 8A of the said return for auto population from returns is under progress which is likely to be completed soon. Please ensure that all applicable returns of the said year have been filed before attempting to file the said return.

### **GSTN activates Communication channel using which a buyer can inform seller about invoices not reported has been deployed in the GST dashboard for assesseees**

The above would be useful as invoices not reported by vendors can be directly send to customers via GSTN and hence the vendor can be asked to do the needful on a legal route as GSTN will be acting as a bridge for the said communication. Today also assesses are communicating but over email, but now a communication through GSTN can lead to greater success for the vendor uploading the missing invoices

Goods and Services Tax

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Dashboard > Services > User Services > Communication Between Taxpayers

English

### COMMUNICATION BETWEEN TAXPAYERS

Notification Received Reply Received

FROM RECIPIENT FROM SUPPLIER

Select	Recipient GSTIN	Trade/Legal Name	Subject	Notification Number	Notification Date
<input type="checkbox"/>					

NO RECORDS FOUND

BACK

Inbox (Notification & Reply Received)  
 + Compose  
 Outbox (Notification & Reply Sent)  
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### COMMUNICATION BETWEEN TAXPAYERS

Send New Notification

Notification To:  End-user Mandatory Fields

Supplier GSTIN:

Subject:

Document Details

Action Required	Document Type	Document Number	Document Date	Document Value	Place of Supply	Invoice Type / Note Supply Type	Reverse Charge	Add Item
Create File Missing Document Request/Document Required Deleted (Wrongly sent to me) Re-Uploaded document Payment made Cancel Cancel	Invoice		24/12/2023		24 - Other	Other	<input type="checkbox"/>	<input type="button" value="Add Item"/>

NO RECORDS FOUND

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 + Compose  
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### COMMUNICATION BETWEEN TAXPAYERS

Notification Sent Reply Sent

TO RECIPIENT TO SUPPLIER

Select	Recipient GSTIN	Trade/Legal Name	Subject	Notification Number	Notification Date	View Notification Sent
<input type="checkbox"/>						

NO RECORDS FOUND

BACK

Inbox (Notification & Reply Received)  
 + Compose  
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# CONTACT US

The background of the slide features a dark blue financial chart with green and yellow candlesticks and a red trend line. On the right side, a close-up of a hand with a finger pointing towards the center is visible.

# THANK YOU

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