

Topic:- CLARIFICATION TO DEAL WITH DIFFERENCE IN INPUT TAX CREDIT (ITC) AVAILED IN FORM GSTR-3B AS COMPARED TO THAT DETAILED IN FORM GSTR-2A FOR FYs. 2017-18 AND 2018-19

**Circular No:-
183/15/2022 dated 27th December, 2022**

- CBIC has issued a clarificatory circular to deal with the mismatch in the ITC availed in GSTR-2A and GSTR-2B for the FY 2017-18 and 2018-19. The Board has led down certain scenarios of mismatch between GSTR-2A and GSTR-3B and the manner and procedure of dealing such cases which is as follows:
 - Where the supplier has **failed to file FORM GSTR-1** for a tax period **but has filed the return in FORM GSTR-3B** for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.
 - Where the supplier **has filed FORM GSTR-1 as well as return in FORM GSTR-3B** for a tax period **but has failed to report a particular supply in FORM GSTR-1**, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.
 - Where supplies were made to a registered person and invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has **wrongly reported the said supply as B2C supply** instead of B2B supply, in his FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the said registered person.
 - Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he **has declared the supply with wrong GSTIN of the recipient in FORM GSTR-1**.

In such cases, the Board has clarified that the proper officer shall first seek the details from the registered person regarding all the invoices on which ITC has been availed by the registered person in his FORM GSTR 3B but which are not reflecting in his FORM GSTR 2A. He shall then ascertain fulfilment of the following conditions of Section 16 of CGST Act, 2017 in respect of the input tax credit availed on such invoices by the said registered person:

- That he is in possession of a tax invoice or debit note issued by the supplier or such other tax paying document;
- That he has received the goods or services or both;
- That he has made payment for the amount towards the value of supply, along with tax payable thereon, to the supplier.

Also, the proper officer shall check whether any reversal of input tax credit is required to be made in accordance with section 17 or section 18 of CGST Act and also whether the said input tax credit has been availed within the time period specified under sub-section (4) of section 16 of CGST Act.

Section 16(2)(c) of the CGST Act, 2017 provides that the recipient is entitled to claim input tax credit when the tax paid on purchases made by him is actually paid to the Government by the Supplier.

Indirectly the burden is on the recipient to prove that tax has been actually paid to the Government by the supplier. Therefore, it is one of main reasons wherein the Revenue authorities issue notices to the taxpayers regarding the mismatch between GSTR-2A and GSTR-3B.

Further, CBIC also clarifies that for verification of one of the conditions for eligibility of availing ITC in clause (c) of sub-section (2) of section 16 of CGST which provides that tax on the said supply has been paid by the supplier, the proper officer may take following action:

SL No.	Issue	Clarification	Remarks
1.	Where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said FY exceeds Rs.5 lakh	The registered person shall produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR-3B	It is to be noted in both the situations that the quantification of Rs. 5 Lakh is with respect to a particular supplier , which means that the claimant shall produce a certificate from the CA or CMA only when ITC pertaining to a particular supplier is more than Rs. 5 Lakhs. In all other cases when the ITC is less than Rs. 5 Lakhs the claimant shall produce a certificate from the supplier.
2.	Where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said FY is upto Rs. 5 lakh	The claimant shall produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.	However, it is important to note that the CA/CMA has to certify that the tax on such invoices has actually been remitted by the said supplier. The circular is silent as to how to verify the payment of tax by the supplier. The CA/CMA can certify the payment of tax by the recipient to the supplier but certifying that the supplier has paid the tax to the govt. is a difficult proposition. The said proposition is already a subject matter of challenge before various High Courts on the principle of doctrine of impossibility. Thus, it would be interesting to see how things turn up regarding the certificate issuance to proof payment of tax by supplier.

SKKA Comments: The Circular in our view is a welcome step by CBIC to end a dispute to huge demands of ITC being raised by the department on account of mismatch. However, the earlier jurisprudence laid by Hon'ble Apex Court in judgments such as Commissioner of Trade & Taxes, Delhi, and others Vs. Arise India Limited and others [TS-2-SC-2018- VAT] wherein it was held that ITC cannot be denied to a bonafide purchaser in absence of connivance should also hold good in GST law.

Topic: -CLARIFICATION ON ENTITLEMENT OF INPUT TAX CREDIT WHERE THE PLACE OF SUPPLY IS DETERMINED IN TERMS OF PROVISO TO SUB-SECTION (8) OF SECTION 12 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

**Circular No:-
184/16/2022 dated 27th December, 2022**

Section 12(8) provides for the place of supply of services by way of transportation of goods, including by mail or courier, where location of the supplier as well as the recipient of services is in India.

Wherein the recipient is a registered person, POS shall be the place of Registered Person.

Where the recipient is unregistered person then POS shall be the location at which such goods are handed over for their transportation.

However, from 1st February 2019 a proviso has been inserted which provides that if a supplier is in India, Recipient is also in India, but the destination of goods is o/s India then in that case POS will be the destination of that goods.

This proviso has created doubts among the taxpayers regarding the availment of ITC.

The circular clarifies that the aforesaid supply shall be treated as Inter State Supply since the location of the supplier is in India and the place of supply is outside India. Therefore, integrated tax (IGST) would be chargeable on the said supply of services.

The circular specifies that the supplier of service would report the place of supply by choosing the State code as 96- Foreign Country. The circular further clarifies that ITC will be made available to the recipient of service subject to fulfilment of conditions laid down in Section 16 & 17 of CGST Act,2017.

SKKA Comments: This circular clarifies the Nature of tax charged and the availability of ITC. Even if the supplier and recipient is within the same state then also IGST will be charged, and ITC will be available to recipient. With this circular litigation in respect to availability of ITC has been put to rest.

Topic:-Guidelines for Clarification with regard to applicability of provisions of section 75(2) of Central Goods and Services Tax Act, 2017 and its effect on limitation-reg

Circular No:-
185/17/2022 dated 27th December, 2022

Applicability of section 75(2) on Tax Determination

- As per section 75(2) of CGST Act, 2017, where the appellate authority or appellate tribunal or court concludes that the notice issued by proper officer under section 74(1) is not sustainable for reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established, then the proper officer shall determine the tax payable by the notice, deeming as if the notice was issued under Section 73(1).
- This Circular clarifies the time limit within which the proper officer is required to re-determine the amount of tax payable considering notice to be issued under section 73(1).
- Amount payable shall be re-determined u/s 73(1). Time period for re-determination shall be 2 years from the date of appellate order.
- Re-determination only of amount for which SCN was issued within the time limit of section 73(2).
- Proceedings for the remaining amount shall be dropped.

SKKA Comments : When appellate authority or appellate tribunal or court concludes that in a scenario where a notice has been issued by proper officer under section 74(1) & such proper officer is unable to establish the charges of fraud or any willful-misstatement or suppression of facts to evade tax then the proper officer is required to re-determine the amount of tax payable considering notice to be issued under section 73(1) & the tax shall be determined within 2 years from the date of communication of the direction by appellate authority or appellate tribunal or the court.

Topic : Clarification on various issue pertaining to GST

**Circular No:-
186/18/2022 dated 27th December, 2022**

Several representations have been received by the department from the field formations seeking clarification on certain issues with respect to –

- i. Taxability of No Claim Bonus offered by Insurance companies;
- ii. Applicability of E-Invoicing

Taxability of No Claim Bonus offered by Insurance companies

Whether the deduction on account of No Claim Bonus allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s)?

The Customer / Insured is under no contractual obligation to not claim the insurance claim during any period covered under the policy, in lieu of No-Claim Bonus.

Therefore, there is no supply provided by the Customer / Insured to the Insurance Company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous years and No-Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the Insurance Company.

No-Claim bonus is mentioned in the policy document and is also recorded on the invoices issued. Hence, it is a permissible deduction under Section 15 of the CGST Act, 2017 to determine the taxable value.

Topic : Clarification on various issue pertaining to GST

Circular No:-
186/18/2022 dated 27th December, 2022

Clarification on applicability of e -invoicing w.r.t an entity :-

In terms of Notification No. 13/2020-Central Tax dated 21.03.2020, as amended, certain Entities / Sectors have been exempted from mandatory generation of e-invoices as per Rule 48(4) of CGST Rules, 2017

It is clarified that the **said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.**

Topic : Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016

**Circular No:-
187/19/2022 dated 27th December, 2022**

1. CBIC has clarified on the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016.
2. As per Section 84 of CGST Act, if the government dues against any person under CGST Act are reduced as a result of any appeal, revision or other proceedings in respect of such government dues, then an intimation for such reduction of government dues has to be given by the Commissioner to such person and to the appropriate authority with whom the recovery proceedings are pending.
3. Recovery proceedings can be continued in relation to such reduced amount of government dues.
4. The word 'other proceedings' is not defined in CGST Act. As the proceedings conducted under IBC also adjudicate the government dues pending under the CGST Act or under existing laws against the corporate debtor, the same appear to be covered under the term 'other proceedings' in Section 84 of CGST Act.
5. Rule 161 of Central Goods and Services Tax Rules, 2017 prescribes FORM GST DRC-25 for issuing intimation for such reduction of demand specified under section 84 of CGST Act.
6. It has been clarified that in cases where a confirmed demand for recovery has been issued by the tax authorities for which a summary has been issued in FORM GST DRC-07/DRC 07A against the corporate debtor, and where the proceedings have been finalised against the corporate debtor under IBC reducing the amount of statutory dues payable by the corporate debtor to the government under CGST Act or under existing laws, the jurisdictional Commissioner shall issue an intimation in FORM GST DRC-25 reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings are pending.

SKKA Comments : Whenever government dues against any person under CGST Act are reduced as a result of any appeal, revision or other proceedings in respect of such government dues, then an intimation for such reduction of government dues has to be given by the Commissioner via FORM GST DRC-25 for issuing intimation for such reduction of demand to such person and to the appropriate authority with whom the recovery proceedings are pending.

CBIC has prescribed the manner of filing of application for refund by unregistered persons, i.e., manner in which an unregistered person, who has suffered the burden of GST, but the contract has been cancelled later (e.g. Construction contract or long-term Insurance policy, where the supplier is bound by the statutory time limit to issue credit note with GST), file application for refund of GST.

Following procedure has been prescribed as to how the unregistered person can obtain a temporary GST registration to claim refund of GST

- New functionality has been introduced in the GST common portal to obtain temporary registration in the supplier's State and apply for refund under the category 'Refund for Unregistered person'.
- Unregistered person would be required to undergo Aadhaar authentication and enter his bank account details in which he seeks to obtain the refund.
- Refund claim shall be filed in FORM GST RFD-01 on the common portal which cannot exceed the GST charged on the Invoice.
- Upload documentary evidence to establish that he has borne the tax incidence.
- Where time limit for issue of Credit Note has not expired at the time of cancellation/termination of agreement/contract, the concerned suppliers can issue credit note and pass on the benefit.
- **Date of cancellation of contract/ agreement for supply will be considered as the relevant date for ascertaining the time limit.**
- Refund application would be not entertained, if the claim is less than INR 1,000.

SKKA Comments : A welcome clarification for unregistered person to get back the refund of taxes paid where they have entered into a contract and later on the agreement got cancelled and the time period for issuing Credit Note by the supplier also lapsed.

1. Applicability of GST on accommodation services supplied by Air Force Mess to its personnel:

All services supplied by Central Government, State Government, Union Territory or local authority to any person other than business entities (barring a few specified services such as services of postal department, transportation of goods and passengers etc.) are exempt from GST vide Sl. No. 6 of notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017.

Therefore, as recommended by the GST Council, it is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Sl. No. 6 of notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

Accordingly, accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity, qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority & are exempt from GST.

2. Applicability of GST on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions:

As recommended by the Council, It is also clarified that incentives paid by Ministry of Electronics and Information Technology to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable under GST.

Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM- UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to Rs.2000/-

Topic- Clarification regarding GST rate and classification of 'Rab' based on the recommendation of the GST Council in its 49th meeting held on 18th February 2023 -reg.

Circular No:-
191/03/2023 dated 27th March, 2023

Based on the recommendation of the GST council in its 49th meeting, held on 18th February, 2023, with effect from the 1st March, 2023, 5% GST rate has been notified on Rab, when sold in pre- packaged and labelled, and Nil GST, when sold in other than pre-packaged and labelled. The GST Council has recommended a reduction in the rate of rab considering it a liquid form of jaggery.

SKKA Comments- This is a welcome clarification for taxpayers as the council has given clarification on GST rates of Rab and have changed the tax rate to 5% - if sold pre-packaged and labelled ,and Nil GST if sold otherwise .Between 48th and 49th Council meeting the rate of rab has been changed from 5% to 18% and back to 5%.Thus this clarification is believed to decrease the tax burden on taxpayers caused due to previous council meeting.

Notification No. 01/2023 – Central Tax dated 04th January,2023

To assign powers of Superintendent of Central Tax to Additional Assistant Directors in DGGI, DGGST and DG Audit

As per this notification, below mentioned officers have been assigned the same powers which are assigned to a Superintendent officer.

1. Additional Assistant Director, Goods and Services Tax Intelligence
2. Additional Assistant Director, Goods and Services Tax
3. Additional Assistant Director, Audit

Notification No. 01/2023 – Central Tax (Rate) 28th February,2023.

Exemption for Entrance examination

As per this notification, a new clause(iva) has been inserted after clause (iv) to Notification no 12/2017-Central Tax(Rate), dated 28th June 2017 which clarifies that **conduct of Entrance examination for admission to Educational institutions by any authority, board or body set up by the central Government** including National Testing Agency is treated as Educational Institution and hence **EXEMPTED** from GST

This Notification come into force with effect from the 01st March,2023 and is exempted **only for the limited purpose of conduct of entrance examination for admission to Educational institution.**

Notification No. 02/2023 – Central Tax (Rate) 28th February, 2023.

The said notification has been issued to give effect to N/No. 13/2017 Central Tax

In the said notification, in the Explanation, in clause (h)-:

(h) provisions of this notification, in so far as they apply to the Central Government and State Governments shall also apply to the Parliament and State Legislatures;]

for the words “and State Legislatures” the words “, State Legislatures, Courts and Tribunals” shall be substituted .

The CBIC has issued notification to provide that taxable services provided by Courts and Tribunals shall be covered under RCM and provisions of RCM notification shall apply to Courts and Tribunals as they apply to the Central Government and State Governments. This notification shall come into force with effect from 1st March, 2023

Notification No. 03/2023 – Central Tax (Rate) 28th February,2023.

Following amendments to Notification no 01/2017-Central Tax(Rate) has been made.

S.N	Category of Goods As per Notification No.2/2017-Central Tax(Rate)	Category of Goods As per Notification No.03/2023-Central Tax(Rate)	Applicability
91A (Schedule I-2.5%)	Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled”	“Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab , prepackaged and labelled ”;	This notification shall come into force with effect from 1st day of March,2023.
186A (Schedule II-6%)		The following clause shall be inserted, namely:- <i>Pencil sharpeners with HSN-8214</i>	
302A (Schedule III-9%)	Other articles of cutlery (for example, hair clippers, butchers' or kitchen cleavers, choppers and mincing knives,); manicure or pedicure sets and instruments (including nail files).	Other articles of cutlery (for example, hair clippers, butchers' or kitchen cleavers, choppers and mincing knives,); manicure or pedicure sets and instruments (including nail files) [other than pencil sharpeners]”	

The Central Government vide N/No. 3/2023 C T (Rate) has reduced the rate of GST from 18% to 12 % in case of pencil sharpeners. Also the rate on pre-packaged and labelled Rab shall be 5%.

Notification No. 04/2023 – Central Tax (Rate) 28th February,2023.

Following changes to Notification no 02/2017-Central Tax(Rate) has been made.

S.N	Category of Goods As per Notification No.2/2017-Central Tax(Rate)	Category of Goods As per Notification No.04/2023-Central Tax(Rate)	Applicability
94	(i)Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled”, (ii) Khandsari Sugar , other than pre-packaged and labelled.	i)Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled”, (ii) Khandsari Sugar,other than pre-packaged and labelled, (iii) Rab, other than prepackaged and labelled”.	This notification shall come into force with effect from 1st day of March,2023.

The CBIC has issued notification to exempt Rab which is not pre-packaged and labelled. This notification shall be effective from 1st March, 2023. However, pre-packaged and labelled Rab shall be taxable at 5%.

Notification No. 01/2023 – Compensation Cess (Rate) 28th February,2023.

S.N	Category of Goods As per Notification No.1/2017-Compensation Cess (Rate)	Category of service As per Notification No.03/2023- Compensation Cess (Rate)	Applicability
41A	Coal rejects supplied by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit there of has not been availed by any person.	Coal rejects supplied to a coal washery or by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person”.	This notification shall come into force with effect from 1st day of March,2023.

Vide this Notification, No Compensation cess on coal rejects supplied to a coal washery shall be levied.

Notification No. 02/2023 – Central Tax 31st March,2023.

Maximum Late Fee in case of late filing of Form GSTR-4 (Composition Dealer) For period July-2017 till 2021-22

Year	Form GSTR-4	Maximum Late Fee	Remarks
July-2017 to 2021-22	Nil Return	Waived off for NIL Returns	If return is filed between 01-04-2023 to 30-06-2023.
July-2017 to 2021-22	Other than Nil Return	Rs 500/- (Rs 250/- CGST & Rs 250/- SGST)	If return is filed between 01-04-2023 to 30-06-2023.

Notification No. 03/2023 – Central Tax 31st March,2023.

The registered person, whose registration has been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30-

One time opportunity **(with no further extension)** provided to taxpayers where registrations were cancelled on or before 31-12-2022 due to non-filing of GST returns. Now, they can apply for revocation of cancellation of their registrations between 01.04.2023 to 30.06.2023 only after filing of returns along with payment of tax, interest, penalty and applicable late fee.

***Explanation:** For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section (1) of section 30 of the said Act.*

Notification No. 04/2023 – Central Tax 31st March,2023.

Through this Notification, the council has made amendment to Rule 8 of CGST Rules,2017 which shall be deemed to come into force from 26-12-2022

Old Rule 8(4) of CGST Rules,2017	Rule 8(4) of CGST Rules 2017,as amended by Notification No. 04/2023 – Central Tax
<p>Rule 8(4) – Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.</p> <p>4A) Every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.</p> <p>4B) The Central Government may, on the recommendations of the Council, by notification specify the States or Union territories wherein the provisions of sub-rule (4A) shall not apply.</p>	<p>Rule 8(4) – Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.</p> <p>4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier. Provided that every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this proviso.”</p> <p>4B) The Central Government may, on the recommendations of the Council, by notification specify the States or Union territories wherein the provisions of proviso to sub-rule (4A) shall not apply.</p>

SKKA Comments-The date of submission of GST registration application shall be date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier.

Notification No. 05/2023 – Central Tax 31st March,2023.

This Notification seeks to amend Notification No. 27/2022– Central Tax, dated the 26th December, 2022-

After this amendment, Notification No 27/2022-Central Tax will be read as -

In pursuance of the powers conferred by sub-rule (4B) of rule 8 of the Central Goods and Services Tax Rules, 2017, the Central Government, on the recommendations of the Council, hereby specifies that the ~~provisions of~~ **Proviso to** sub-rule (4A) of rule 8 of the said rules shall not apply in all the States and Union territories except the State of Gujarat

SKKA Comments -Sub-Rule 4B has been amended so as to give effect to Proviso of Sub-Rule 4A thereby making the Proviso to Sub-Rule 4(A) applicable only to the State of Gujarat.

Procedural changes under GST registration relating to Aadhar authentication and biometric verification of applicants have been made in GST rules. The said changes shall be effective from 26.12.2022. Further, the above provisions shall apply only in the State of Gujarat.

Notification No. 06/2023 – Central Tax 31st March,2023.

Through this notification relaxation has been provided to registered person who have failed to file the returns after assessment u/s 62(1) within 30 days from the service of assessment order.

If all of below conditions are fulfilled then the assessment order shall have been deemed to be withdrawn -

(i) Assessment Order issue date – on or before 28th February 2023

(ii) Due date to file return – 30th June 2023

(iii) The applicable interest under section 50(1) and late fee payable under section 47 of CGST Act,2017 shall be paid along with return.

The above relaxation shall be applicable to the all person including cases where an appeal has been filed against such order or not,or whether or not the appeal, if any, filed against the said assessment order has been decided.

SKKA Comments- The above notification have provided good opportunity to taxpayers Who have defaulted in filing return u/s 39 or u/s 45 within 30 days of service of assessment order u/s 62(1) issued on or before 28th Feb,2023 to get relived from such assessment order by filing the said returns till 30th June,2023 and paying the applicable interest u/s 50(1) and late fee u/s 47 of CGST Act,2017. Further, the above opportunity is given whether or not appeal if filed / decided against the said assessment order.

Notification No. 07/2023 – Central Tax 31st March,2023.

Late fees u/s 47 has been rationalised for Annual Returns u/s 44 (GSTR-9) for the F.Y 2022-23 onwards based on turnover of the registered persons-

Class of registered person	Amount
Aggregate Turnover of up to Rs 5 cr	Rs. 50 per day (i.e., Rs 25 CGST and Rs 25 SGST) subject to a maximum of 0.04% (i.e., 0.02% CGST and 0.02% SGST) of the turnover for the relevant FY in the State or Union Territory
Aggregate Turnover exceeding Rs 5 cr but up to Rs 20 cr	Rs. 100 per day (i.e., Rs 50 CGST and Rs 50 SGST) subject to a maximum of 0.04% (i.e., 0.02% CGST and 0.02% SGST) of the turnover for the relevant FY in the State or Union Territory

Amnesty for filing GSTR-9 of previous Financial Year-

For all assesseees irrespective of turnover, the maximum late fee payable u/s 47 of the CGST Act, 2017 for all pending GSTR 9 since 2017-18 till 2022-23 would be **Rs. 20,000/- per return** (Rs 10,000 CGST and RS 10,000 SGST) if filed between **01-04-2023 to 30-06-2023**.

Notification No. 08/2023 – Central Tax 31st March,2023.

Amnesty Scheme for Filing of Final Return under Form GSTR-10 If filed between 01-04-2023 to 30-06-2023 :

Form No	Late Fee Amount	Remarks
GSTR-10	Maximum Late fee Rs 1000/- (Rs 500/- CGST and Rs 500/- SGST)	If final Return is filed between – 01-04-2023 to 30-06-2023

The actual late fee payable was Rs. 20,000/- which has now been reduced to Rs. 1000/-

Notification No. 09/2023 – Central Tax 31st March,2023.

Time Limit For Issuing Order Under Section 73(10) Is Further Extended as per the below chart-

FY	GSTR 9/9C DUE DATE	EXTENDED SCN ISSUE DATE U/S 73	EXTENDED ORDER ISSUE DATE U/S 73	SCN ISSUE DATE U/S 74	ORDER ISSUE DATE U/S 74
2017-18	05-02-2020/ 07-02-2020	30-09-2023	31-12-2023	06-08-2024	06-02-2025
2018-19	31-12-2020	31-12-2023	31-03-2024	30-06-2025	30-12-2025
2019-20	31-03-2021	30-03-2024	30-06-2024	30-09-2026	30-03-2026

SKKA Comments- The above extension provided to the department to issue SCN and pass orders under powers conferred by section 168A of the CGST Act, 2017 is completely arbitrary in our view and is bound to be challenged before the High Court in our view.

Notification No. 01/2023 – Compensation Cess 31st March,2023.

Through this notification , the Central Government has ***brought into force Section 163 of Finance Act,2023*** effective from 01-04-2023 which is in relation to levy of compensation cess based on retail sale price.

Extract of sec 163 of Finance Act,2023 :

163. In the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017,—

(a) in serial number 1, for the entry in column (4) occurring against tariff item 2106 90 20, the entry “fifty-one per cent. of retail sale price per unit” shall be substituted;

(b) in serial number 2, for the entry in column (4) occurring against Chapter 24, the entry “Four thousand one hundred and seventy rupees per thousand sticks or two hundred and ninety per cent. ad valorem or a combination thereof, but not exceeding four thousand one hundred and seventy rupees per thousand sticks plus two hundred and ninety per cent. ad valorem or hundred per cent. of retail sale price per unit” shall be substituted;

(c) the following Explanation shall be inserted at the end, namely:—

‘Explanation.—For the purposes of this Schedule,—

(i) “retail sale price” means the maximum price at which the concerned goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for such sale:

Notification No. 01/2023 – Compensation Cess 31st March,2023.

Provided that where the provisions of the Legal Metrology Act, 2009 or the rules made thereunder or any other law for the time being in force require to declare on the package, the retail sale price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly;

(ii) where on the package of any concerned goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price;

(iii) where the retail sale price, declared on the package of any concerned goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price;

(iv) where different retail sale prices are declared on different packages for the sale of any concerned goods in packaged form in different areas, each such retail sale price shall be the retail sale prices for the purposes of determination of the rate of cess for the said goods intended to be sold in the area to which the retail sale price relates.'

Vide this notification, the provisions of section 163 of Finance Act,2023 have been notified relating to levy of compensation cess based on Retail Sale Price.