



# **GST Bulletin**

**April 2024 Issue – II**

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## About The GST Bulletin

The GST Bulletin is a Weekly Newsletter from Team CGA Legal, a leading Indirect Tax Consultancy firm. The Newsletter is intending to keep its readers updated with all important legal and judicial updates in Goods & Services Tax and other Indirect Tax laws. The Newsletter also has a special column of GST Compliance Calendar for the month. Along with it, CGA Legal also sends various legal recommendations which have immense implications in improving the compliance of GST in your business.

All editions of our newsletters can be referred from below link below;  
<https://www.cgalegal.co.in/home/newsletters.php>

## Other Offerings from Team CGA Legal

- **CGA Legal GST Compliance Calendar:** Our Monthly Calendar detailing all GST related compliances for the month so that you never miss of any of the compliances.
- **CGA Legal Meet:** Our Monthly Webinar series discussing various trending GST legal and compliance issues

All the previous editions can be accessed on our website  
[www.cgalegal.co.in](http://www.cgalegal.co.in)

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## GST Updates – GST Technical Update

### **Advisory: Auto-populate the HSN-wise summary from e-Invoices into Table 12 of GSTR-1**

**Dated: 09-04-2024**

Dear Taxpayers,

1. GSTN is pleased to inform that a new feature to auto-populates the HSN-wise summary from e-Invoices into Table 12 of GSTR-1 is now available on the GST portal. This allows for direct auto-drafting of HSN data into Table 12 based on e-Invoice data.
2. Please note that the HSN-wise summary data auto-populated into Table 12 is intended for your convenience. Please ensure that you reconcile the data with your records before its final submission.
3. Any discrepancies or errors should be manually corrected or added in Table 12 before final submission.

## GST Updates – GST Technical Update

### **Advisory on Reset and Re-filing of GSTR-3B of some taxpayers**

**Dated: 09-04-2024**

Dear Taxpayers,

1. This has reference to the facility for re-filing of GSTR-3B for some of the taxpayers. It was noticed that there were discrepancies in the returns of some taxpayers during the filing process between the saved data in the GST system and actually filed data in the fields of ITC availment and payment of tax liabilities. The matter was examined and deliberated by the Grievance Redressal Committee of the GST Council and as a facilitation measure the Committee decided that these returns shall be reset, in order to give opportunity to such taxpayers to correct the discrepancy.
2. Accordingly, only the affected taxpayers have been communicated on their registered email-ids and the affected returns are visible on their respective dashboards for the purpose of re-filing with the correct data. The taxpayers who have received such communication, are requested to visit their dashboard and re-file their GSTR-3B within 15 days of receipt of such communication.
3. You may reach out to your jurisdictional tax officer or may raise ticket of GST grievance redressal portal, in case you face any difficulty in re-filing of such GSTR-3B.
4. Inconveniences caused to the taxpayer is deeply regretted.

## GST Updates – GST Technical Update

### **Advisory: Self Enablement For e-Invoicing**

**Dated: 03-04-2024**

Dear Taxpayers,

If your turnover exceeds INR 5 crores in the financial year 2023-2024, you will be required to start e-Invoicing from the next financial year, i.e., from 1st April 2024 onwards. It may also be noted that same is applicable if the threshold is crossed in any of the proceeding financial years too.

For those who meet the notification criteria but have not yet been enabled on the portal, you can self-enable for e-Invoicing by visiting <https://einvoice.gst.gov.in> and start reporting through any of the 4 new Invoice Registration Portals (IRPs) - from e-Invoice IRP 3 to e-Invoice IRP 6

<https://einvoice3.gst.gov.in>

<https://einvoice4.gst.gov.in>

<https://einvoice5.gst.gov.in>

<https://einvoice6.gst.gov.in>

To report e-Invoices through NIC IRP 1 & 2, taxpayers can self-enable at

<https://einvoice1.gst.gov.in>

<https://einvoice2.gst.gov.in>

## GST News

### Central & State GST officials to conduct joint audits of firms

**Dated: 09-04-2024**

Central and State goods and services tax (GST) officials will jointly conduct audits of businesses under the indirect tax regime from this financial year, a relief for taxpayers as it will weed out duplicate notices and dual investigations.

As per industry estimates, there are about 11,000 such cases of dual investigation by both the Central and State authorities or under litigation. Several Central GST zonal heads have sent an internal communique to officials, asking them to invite state officials to join.

Read more at :

<https://economictimes.indiatimes.com/news/company/corporate-trends/central-state-gst-officials-to-conduct-joint-audits-of-firms/articleshow/109143298.cms>

## GST – Judicial Precedents

### 1. Demand and Recovery

Whether penalty is payable when the taxpayer has paid the tax along with interest before issuance of SCN in case where the taxpayer has collected the tax but not paid to the Government

#### **M/s. Global Plasto Wares Vs. Assistant State Tax Officer [Kerala High Court]**

**Fact:** The petitioner has grievance in respect of the penalty assessed in terms of the provisions of Section 73(11) of the CGST Act, 2017. The petitioner has paid all tax before 30 days from the date of the notice. The notice is dated 28.02.2022 and the petitioner has paid the tax on 10.03.2022. The question is whether an assessee who had paid the tax within thirty days from the issue of notice along with interest would be held to be liable for penalty. He has collected the tax and has not paid it to the Government within 30 days from the date from he collected.

Reliance was placed on Section 73(8) of the GST Act, 2017 that if a person chargeable with tax under Sub-section (1) or Subsection (3) of Section 73 of the GST Act, 2017 paid the tax along with the interest payable under Section 50 within 30 days of issue of notice, no penalty shall be payable and all proceedings in respect of the said notice would be deemed to be concluded.

**Held:** Considering the provisions of Sub-sections 6, 8 and 9 of Section 73 of the GST Act, it is provided that if a person chargeable to tax fails to deposit the tax collected by him within 30 days from the due date of the payment of the such tax, Sub-section 8 will not have any effect and such a person is liable to pay penalty. Thus, the Assessing Authority has taken the correct view in the matter and, therefore, there is no error of law which requires interference by the Court.



## GST – Judicial Precedents

### 2. Payment of Tax

No interest on the Input Tax Credit availed and reversed but not utilized

**Ranjan Sarkar Versus Assistant Commissioner of State Tax, Alipurduar Range & Bureau of Investigation, Unit IV, West Bengal Goods And Service Tax & Ors. [Calcutta High Court]**

The issue involved in the present matter i.e. whether any interest can be levied under Section 50(3) of the West Bengal Goods and Service Tax Act 2017 in cases of wrong availment of Input of Tax Credit and reversal thereof, is no more res integra in view of Circular No. 192 /04/ 2023 – GST, dated 17.7.2023 and also the judgments of various High Courts in (2023) 150 taxmann.com 176 (Madras); (2023) 156 taxmann.com 325 (Punjab & Haryana) and order dated 13.12.2022 in the Writ Petition No. 2654 of 2020, M/s. Larsen & Toubro Limited vs. State of West Bengal & Ors.

Learned counsel for the respondents fairly states that there has been an amendment made in the Finance Act, 2022 in Section 50(3) with retrospective effect from 1st July, 2017 which entitles the petitioner not to pay the interest on the Input Tax Credit availed and reversed but the same has not been utilized.

In view of the aforesaid facts and circumstances of the case, the present writ petition is allowed and the impugned order dated 15.10.2020 passed by the respondent no.2 and an order dated 11.01.2022 passed by respondent no.3 are hereby set aside and the petitioner is relegated back to the adjudicating authority for fresh consideration as per law.

## GST – Judicial Precedents

### 3. Demand and Recovery

Validity of the show cause notice as it was not uploaded on the GST portal under the heading 'Notices' but appears to have been uploaded under the heading of Additional Notices

#### **Maple ODC Movers Private Limited Versus Union of India & Ors. [Delhi High Court]**

**Facts:** Learned counsel for the petitioner submits that petitioner never received any show cause notice as the show cause notice was not uploaded on the GST portal under the heading 'Notices' but appears to have been uploaded under the heading of 'Additional Notices'. He submits that he was neither aware of the show cause notice nor any date of hearing and consequently could not file a reply to the show cause notice. He submits that the impugned order was also not received by the petitioner. However, he became aware from one of the officers who during an official meeting informed the petitioner about a demand having been confirmed against the petitioner.

**Held:** Perusal of the impugned order shows that the order does not specifically deal with any of the averments in the notice and appears to be an order passed in default on account of the petitioner neither filing a reply nor appearing for personal hearing.

In view of the above and in view of the request of the petitioner that an opportunity be given to the petitioner to file a response to the show cause notice, the impugned order dated 15.12.2023 is set aside. Petitioner is given an opportunity of filing a reply to the show cause notice within a period of 30 days from today. Thereafter the Proper Officer shall re-adjudicate the Show Cause Notice after giving an opportunity of personal hearing to the petitioner and shall pass a fresh speaking order in accordance with law within the period prescribed under Section 75 (3) of the Act. It is clarified that this Court has neither considered nor commented upon the merits of the contentions of either party. All rights and contentions of parties are reserved.

Petition is disposed of in the above terms.

## GST – Judicial Precedents

### 4. Demand and Recovery

Without following the procedure prescribed the recovery cannot be made

#### **Caterpillar India Private Limited Vs Assistant Commissioner [Madras High Court]**

**Facts:** The notice in GST DRC-01A dated 07.09.2023 was issued for difference between the sales declared in the outward supplies and declared in Form GSTR 1. The petitioner has replied the notice in GST DRC-01A dated 07.09.2023 on 11.09.2023. However, the Department issued the impugned recovery notice dated 13.09.2023.

The difference between the sales declared in the outward supplies and declared in Form GSTR 1 is primarily on account of the sales return which has been explained in reply dated 11.09.2023. After the reply was given by the petitioner, the impugned recovery notice seeks to invoke Section 75(12) read with Rule 88C of the CGST Rules, 2017. The Department ought to have mandatorily issued notice in Part A of Form GST DRC-01B electronically on the common portal. Till date such intimation has not been received by the petitioner either physically or in the electronic portal. There is no scope for short circuiting in the procedural safeguards prescribed under Rule 88C of the CGST Rules, 2017 vide Notification No.26/2022 dated 26.12.2022.

**Held:** Without following the procedure prescribed the recovery cannot be made directly based on the difference noticed in Form GSTR -1 and Form GSTR -3B without complying with the mandatory requirements of Rule 88C of CGST Rules, 2017. Thus, the impugned recovery notice issued under Rule 79 of the CGST Rules, 2017 is quashed with liberty to the Department to issue appropriate notice in Form GST DRC-01B before proceedings to recover any amount based on the difference noticed in Form GSTR 1 and Form GSTR 3B.



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