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# **GST Bulletin**

**June 2024 Issue – I**

**Date of Issue – 5<sup>th</sup> June 2024**

## 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 Compliance Calendar - May 2024

Date	Types of Return	Period	Types of Taxpayer
10-06-2024	GSTR-7	May 2024	TDS Deductor
10-06-2024	GSTR-8	May 2024	E-Commerce Operator
11-06-2024	GSTR-1	May 2024	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-06-2024	Details of Outward Supplies through Invoice Furnishing Facility [IFF]	May 2024	Taxpayers who are under QRMP Scheme
13-06-2024	GSTR-6	May 2024	ISD
13-06-2024	GSTR-5	May 2024	Non Resident Taxable Person
20-06-2024	GSTR-3B	May 2024	Turnover more than INR 5 crore in the preceding FY or Turnover upto INR 5 crore in the preceding FY but opted for monthly return filing
20-06-2024	GSTR-5A	May 2024	OIDAR
25-06-2024	GST PMT-06	May 2024	Taxpayer who has opted for QRMP Scheme has to deposit tax using form GST PMT-06 by the 25th of the following month, for the first and second months of the quarter.

## GST Updates – CBIC Instruction

### **Guidelines for initiation of recovery proceedings before three months from the date of service of demand order**

#### **Instruction No. 01/2024-GST, dated: 30-05-2024**

The Instruction issued by the Government of India (CBIC) provides guidelines for initiating recovery proceedings u/s 79 of the Central Goods and Services Tax Act, 2017 (GST Act). Recovery proceedings can be initiated if any amount payable by a taxable person is not paid within three months from the date of service of the order. However, in exceptional cases for the interest of revenue, the proper officer may require early payment with recorded reasons. The jurisdictional Deputy or Assistant Commissioner must seek approval from the Principal Commissioner/ Commissioner before initiating early recovery. Reasons for early recovery must be based on credible evidence to safeguard revenue. Failure to comply results in recovery as per u/s 79.

## GST Updates – GST Technical Update

### Advisory on launch of E-Way Bill 2 Portal

**Dated: 28-05-2024**

GSTN is pleased to inform that NIC is releasing the E-Way Bill 2 Portal (<https://ewaybill2.gst.gov.in>) on 1st June 2024. This portal ensures high availability and runs in parallel to the e-way Bill main portal (<https://ewaybillgst.gov.in>). The e-way bill 2 portal synchronizes the e-way bill details with main portal within a few seconds. The highlights of the portal are as follows:

- Presently, E-Way Bill 2 Portal provides the critical services of E-Way Bill system, and gradually it will be extended with other services of e-way bill system.
- E-Way Bills can be generated and updated on the E-Way Bill 2 Portal independently.
- E-Way Bill 2 portal provides the web and API modes of operations for e-way bill services.
- The taxpayers and logistic operators can use the E-Way Bill 2 portal with the login credentials of the main portal.
- The taxpayers and logistic operators can use the E-Way Bill 2 portal during technical glitches in e-way bill main portal or any other exigencies.
- The Criss-Cross operations of printing and updating of Part-B of E-Way Bills can be carried out on these portals. That is, updating of Part-B of the E-Way bills of portal 1 can be done at portal 2 and vice versa.
- In case E-Way Bill main portal is non-operational because of technical reasons, the Part-B can be updated to the E-Way Bills, generated at Portal 1, at portal 2 and carry both the E-way Bill slips.
- For further details, please visit the e-way bill portals.



## GST News

### **GST appeal process to be fully digitized**

**Dated: 02-06-2024**

The Goods and Services Tax Network (GSTN) will digitise the entire process of dispute resolution via appeal to the GST Appellate Tribunal (GSTAT), a senior official told FE. A portal is likely to be ready for this purpose before the full operationalisation of all the benches of the tribunal.

FE had reported earlier that the government intends to operationalise all the benches of GST Appellate Tribunal (GSTAT) by January 2025, as it aims to alleviate the significant backlog of pending GST-related disputes at the appellate level, citing a source. The principal bench of GSTAT, in New Delhi, is expected to start functioning from July-August.

For more information, kindly follow the link below:

<https://www.financialexpress.com/business/industry-gst-appeal-process-to-be-fully-digitised-3510235/>

## GST – Judicial Precedents

### 1. Detention of Goods and Vehicle

**Transporters are not required to carry original tax invoice while transporting goods, the duplicate tax invoice will suffice**

#### **M/s. Kolvekar Logistics Vs Joint Commissioner of Commercial Taxes (Appeals) [Karnataka High Court]**

**Facts:** It is stated by the Tax Officer that the Original Tax Invoice was not carried in the vehicle and therefore, the petitioner is liable for penalty. Accordingly, the Enforcement passed the order dated 01.10.2021 determining the tax and penalty.

**Held:** In M/s Divya Jyothi Petrochemicals Co. a similar contention was raised by the petitioner therein. The same was considered in the light of the Rule 138-A of the SGST and Section 68 of the CGST and Rule 48 of the CGST and an opinion was formed that as per Rule 48(1)(b) of the CGST, it is only the duplicate copy which is meant for transporter and the triplicate copy is meant for supplier as per clause (c). It is therefore, held that the transporter is not required to carry the original tax invoice, but the law mandates him to carry the duplicate copy.



## GST – Judicial Precedents

### 2. Appeals

#### Failure to file appeal within prescribed time renders writ petition challenging assessment order not maintainable

#### **M/s. Thekedar Nand Lal Sharma vs State of Rajasthan [Rajasthan High Court]**

**Facts:** The petitioner did not even file appeal and allowed the order passed in assessment proceedings to become final and thereafter approached this Court by filing writ petition seeking to challenge the determination of tax, interest and penalty by the competent authority vide order dated 02.03.2023.

**Held:** In the case of Glaxo Smith Kline Consumer Health Care Limited [Supreme Court], the question which arose for consideration was whether the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India, ought to entertain a challenge to the assessment order on the sole ground that the statutory remedy of appeal against that order stood foreclosed by law of limitation.

After detailed consideration, the Hon'ble Supreme Court arrived at the conclusion that in such circumstances, the writ petition was not maintainable and was liable to be dismissed. It was held 'since the statutory period specified for filing of appeal had expired long back in August, 2017 itself and the appeal came to be filed by the respondent only on 24.9.2018, without substantiating the plea about inability to file appeal within the prescribed time, no indulgence could be shown to the respondent at all.

In the writ petition, no plausible explanation has been offered as to why the petitioner did not take recourse to the remedy of statutory appeal. It, therefore, appears that the petitioner consciously did not choose to take recourse to the remedy of appeal as provided under Section 107 of the RGST Act, 2017/the CGST Act, 2017, but waited for the expiry of the period of limitation for filing appeal as also the maximum period of delay which could be condoned in the exercise of powers conferred upon the appellate authority under the provisions of Section 107 of the RGST Act, 2017/ the CGST Act, 2017. Having not preferred an appeal, the petition in the present case, in view of the decision of Hon'ble Supreme Court in the case of Glaxo Smith Kline Consumer Health Care Limited is not maintainable. The writ petition is dismissed.

## GST – Judicial Precedents

### 3. Supply

**Export of processed frozen shrimps shall be subjected to GST when the inner packing is printed to attain the character of pre packaged and labelled irrespective of the fact whether the outer packaging is printed or not**

#### **M/s. Asvini Fisheries Private Limited [AAR Tamil Nadu]**

**Facts:** The applicant had filed an application seeking Advance Ruling on the following issues :-

- 1) Whether the export of processed frozen shrimps (HSN: 0306) packed in individual printed pouch / box, further packed inside a printed master carton (of upto 25 legs each), containing the design, label and other particulars provided by the buyer, attracts GST?
- 2) Whether the export of processed frozen shrimps (HSN: 0306) packed in individual plain pouch / box, further packed inside a plain master carton (of upto 25 kgs each), attracts GST?

**Held:** **Export of processed frozen shrimps in printed pouches/boxes** - In the instant case, since the inner packing is printed and is having pre-determined quantity it immediately attains the characteristics of 'pre-packaged and labelled' category, meant for retail sale, irrespective of the fact whether the outer packaging is printed or not. Under these circumstances, the inner packaging which ranges from 250 grams to 2 kilograms becomes liable to GST, as the same fall within the ambit of 'pre-packaged and labelled' category which is mandated to bear the declarations under the provisions of the Legal Metrology Act, 2009 and the rules made thereunder.

**Export of processed frozen shrimps in plain pouches/boxes:-** In the instant case, the ultimate buyer is not present when commodity is placed in package and the commodity is being pre-packed for an unknown ultimate buyer. Therefore, where the quantity involved is 25Kgs or less in respect of specified commodities including shrimps (HSN 0306) which are pre-packed, they would mandatorily get covered within the ambit of Legal Metrology Act, 2009, and the rules made thereunder. Accordingly, GST would be applicable on the supply of pre-packaged and labelled shrimps upto 25 kgs, irrespective of the fact whether it is meant for domestic supplies or for export, as long as they are specified commodities that are pre-packaged.

## GST – Judicial Precedents

### 4. Supply

#### Sale of goods warehoused in a third-party Free Trade Warehousing Zone to customer who clears the same to bonded warehouse under MOOWR Scheme is not liable to GST

##### **M/s. Sunwoda Electronic India Private Limited [AAR Tamil Nadu]**

**Facts:** The Applicant enters into a contract with an Original Equipment Manufacturer (OEM in short) licensed under Section 65 of the Customs Act, 1956, read with Manufacture and Other Operations in Warehouse (No. 2) Regulations, 2019 (MOOWR in short) for supply of imported Portable Lithium System Batteries. In order to perform the contract, the said goods are imported by the Applicant from abroad to a third party Free Trade Warehousing Zone (3P FTWZ in short) in India. The goods are sold to the OEM's MOOWR unit while lying in the 3P FTWZ and are cleared under bond by the OEM's MOOWR unit, on need basis. Under these circumstances, the applicant have filed an application seeking Advance Ruling on the following question

*“Whether,, GST is leviable on the sale of Applicant’s goods warehoused in a third-party Free Trade Warehousing Zone (“3P FTWZ33) on “as is where is” basis to customer who clears the same to bonded warehouse under MOOWR Scheme?”*

**Held:** The Free Trade Warehousing Zone (FTWZ) is part of SEZ scheme and it is a Customs bonded warehouse. Warehousing of goods that are imported without payment of appropriate Customs duties are carried out in these zones. SEZ is a specifically delineated duty free enclave which is deemed to be a foreign territory for the purposes of trade operations and duties and tariffs. Normally, the applicant imports goods and stores them in FTWZ till he finds a local customer who will purchase the goods and such purchaser clears the goods under the Customs Act. In other words, the goods would become exigible to tax under the domestic enactments only when they are released for home consumption.

It is held that the instant case of the applicant, where the imported goods stored in a 3P FTWZ warehouse, is being moved to the Bonded Warehouse (MOOWR) on effecting a sale to an OEM's MOOWR unit, taxes under GST are not leviable, as the transaction gets squarely covered under clause 8 (a) of the Schedule III of the CGST Act, 2017, which reads as “Supply of warehoused goods to any person before clearance for home consumption”.



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