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# GST LAW COMMUNIQUE

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Issue 9

Latest updates for the month of December 2024

## A] Important Notifications (Rate)

No new rate Notifications are issued during the month

## B] Important Notifications

**1] Extension of due date for filing FORM GSTR-3B:** The due date for filing FORM GSTR-3B for the month of October 2024 is extended till 11<sup>th</sup> December, 2024 for the registered persons whose principal place of business is in the district of Murshidabad in the state of West Bengal.

[Notification No 30/2024-Central Tax dt. 10<sup>th</sup> December, 2024]

**2] Common adjudicating authority for Show cause notices issued by DGGI:** Powers are delegated to the Additional Commissioner or Joint Commissioner, CGST and Central Excise, Chandigarh Commissionerate to act as the Adjudicating Authority in certain cases.

[Notification No 31/2024-Central Tax dt. 13<sup>th</sup> December, 2024]

## C] Important Circulars

**1] Amendment to Circular No. 31/05/2018-GST on proper officer to adjudicate the DGGI cases :** Circular No. 239/33/2024-GST, dated December 4, 2024, amends Circular No. 31/05/2018-GST to enhance the adjudication process for show cause notices (SCNs) issued by the Directorate General of GST Intelligence (DGGI). Key amendments include:

**A] Expanded Adjudication Authority:** Additional and Joint Commissioners of specified Commissionerates are now granted All India jurisdiction to adjudicate SCNs issued by DGGI officers, even in cases involving multiple entities or locations.

**B] Handling Subsequent SCNs:** For subsequent SCNs on the same issue:

- If issued to a single noticee, the jurisdictional adjudicating authority of the noticee will handle it.
- If issued to multiple noticees, the SCNs will follow the highest tax demand criteria as specified.

**C] SCNs Issued Prior to December 1, 2024:** For SCNs issued by DGGI officers before the enforcement of Notification No. 27/2024-Central Tax (effective December 1, 2024) and pending adjudication, a corrigendum will be issued to assign these cases to the empowered officers under the updated criteria.

[Circular No 239/33/2024-GST dt. 04<sup>th</sup> December, 2024]

## Incorporating

- 1] Important Notifications
- 2] Important Circulars/Clarifications
- 3] Important Case laws, AAR, AAAR
- 4] Compliance calendar for the month of December 24



**2] Clarification on ITC availed by the E-Commerce operator:** It is clarified that E-Commerce Operator, who is liable to pay tax under section 9(5) of the CGST Act in respect of specified services, is not required to reverse the input tax credit on his inputs and input services proportionately under section 17(1) or section 17(2) of CGST Act to the extent of supplies made under section 9(5) of the CGST Act. It is also clarified that E-Commerce Operator is required to pay tax liability under Section 9(5) of the CGST Act through Electronic Cash Ledger. It is also clarified that credit availed in respect of the supplies on which tax is paid under Section 9(5) of the CGST Act can be utilized to discharge liability in respect of supply of services on his own account.

[Circular No 240/34/2024-GST dt. 04<sup>th</sup> December, 2024]

**3] Clarification on ITC in case of ex-works contract:** It has been clarified that in case of delivery on ex-works basis, recipient is entitled to avail the credit immediately when goods are handed over to a transporter at the supplier's premises under an EXW contract. It is clarified that the buyer is deemed to have received the goods for ITC purposes. The ITC is available subject to fulfillment of other conditions of Section 16 and restrictions as provided under Section 17 of the CGST Act.

[Circular No 241/35/2024-GST dt. 31<sup>st</sup> December, 2024]

**4] Clarification on supply of online services to unregistered person:** It is clarified that in respect of supply of any such online/ digital services, OIDAR services and online money gaming to unregistered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A. It is provided that supplier should devise suitable mechanism to ensure collection of such details from unregistered recipient before making any supplies to him. It is clarified that the name of the State of the recipient so recorded shall be deemed to be the address of recipient available on record and thus, for determining place of supply of the said services, provisions of section 12(2)(b)(i) of IGST Act will be applicable as per which the place of supply shall be the location of the recipient. It is also clarified that in case of failure to comply with the above clarification, penal consequences shall be applicable as provided under Section 122(3)(e) of CGST Act.

[Circular No 242/36/2024-GST dt. 31<sup>st</sup> December, 2024]

**5] Clarification on taxability of vouchers:** It is clarified that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST. It is further clarified that in case of trading of vouchers also GST is not applicable as it neither supply of goods nor supply of services. However, where vouchers are distributed on commission basis, such commission will be subject to GST as in such cases, distributors/sub-distributors/agents do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer.

It is also clarified that additional services given to voucher issuers such as marketing services are subject to GST. With respect to unredeemable vouchers, it is clarified that there is no supply of underlying goods and/or services and the amount retained for unredeemed vouchers by the voucher issuer cannot be construed as consideration for any supply. Accordingly, such amount attributable to unredeemed vouchers (breakage) would not be taxable as per the provisions of section 9(1) of the CGST Act.

[Circular No 243/37/2024-GST dt. 31<sup>st</sup> December, 2024]

**D] Important Instructions**

No new instructions are issued during the month

**E] Important Case Laws****1] Silverline Vs. State of Bihar - 2024(91) G.S.T.L.3 - Patna High Court-**

Appeals to Appellate Authority - Natural justice - Appellate authority dismissed appeal on ground that appellant failed to produce documents in support of his case despite opportunity being granted - HELD : Appellate Authority has a duty and an obligation under statute to look into merits of matter and also examine grounds raised by appellant and decide issue on merits - Appellate Authority even while considering appeal ex parte will have to consider grounds raised in memorandum of appeal, deciding appeal on merits, failing which it would be abdicating its powers - Impugned order was to be set aside and appeal was to be restored -Section 107 of Central Goods and Services Tax Act, 2017/Bihar Goods and Services Tax Act, 2017.

**2] Shree Balaji Traders Vs. Com. of GST & C.ex.( Appeals), Madurai- 2024(91) G.S.T.L.69- Madras High Court-**

Appeals to Appellate Authority - Pre-deposit - Violation of natural justice - Assessee preferred an appeal against order in original before appellate authority - Said appeal had been rejected on ground that assessee had not complied with mandatory condition of pre-deposit of 10 per cent of disputed tax amount - Assessee submitted that submissions were made before appellate authority on merits and assessee was never put to notice of fact that they had not complied with 10 per cent pre-deposit - Grievance of assessee was dismissal of appeal without putting assessee on notice of non-compliance relating to pre-deposit resulting in denial of an opportunity to demonstrate that statutory pre-deposit had been complied with - HELD : There was merit in grievance, therefore matter was to be remanded back to appellate authority [Section 107 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

**3] Pink City Steel Rolling Mills Pvt. Ltd.- 2024(91) G.S.T.L.109- AAR, Rajasthan-**

Supply - Time of supply of goods - Interest on delayed payment of price - Applicant-assessee is a manufacturer who sold goods to purchaser but purchaser did not paid invoice amount in time and thereafter assessee demanded interest on said delayed payment as per terms of invoice and debited interest in account of purchaser - HELD : As per Section 12(6) time value of supply to extent it relates to an addition in value of supply by way of interest, late fee, penalty for delayed payment of any consideration shall be date on which supplier receives such addition in value - Therefore, in view of Section 12(6) GST is to be paid on date on which supplier of goods receives such addition in value through interest of delayed payments -Section 12 read with Section 15 of Central Goods and Services Tax Act, 2017/Rajasthan Goods and Services Tax Act, 2017.

**4] Viswaat Chemicals Ltd. Vs. Union of India- 2024(91) G.S.T.L.114- Bombay High Court-**

Demands - Tax or ITC not involving fraud, etc. - Show cause notice, defects in - Violation of natural justice - A show cause notice was issued to assessee and thereafter impugned adjudication order was passed - Assessee challenged same vide instant writ petition and submitted that show cause notice was vague and bereft of relevant particulars, as a result, assessee was deprived of an effective opportunity to respond to said notice - It was urged that there was violation of principles of natural justice, and since show cause notice was issued without jurisdiction, impugned order was a nullity - HELD : On perusal of show cause notice it was noticed that it was not at all vague, but rather contained all material particulars - Since grounds for alleged vagueness in show cause notice were misconceived, instant petition of assessee was to be dismissed with cost of Rs. 5 lakhs [Section 73 of Central Goods and Services Tax Act, 2017/Maharashtra Goods and Services Tax Act, 2017.



**5]Cable & Wireless Global India Pvt. Ltd.- 2024(91) G.S.T.L.139- Delhi High Court-**

Refund of ITC - Export without payment of tax - Period 2019 to 2020 - Petitioner-assessee provides Business Support Services to Vodafone Group Services Limited (VGSL) - Assessee filed and application for a refund of unutilized input tax credit (ITC) amounting to INR 47,33,053 - Assessee contended that said ITC refunds arose from export of services by its Delhi branch office to VGSL - However, refund application was rejected by revenue because payment for these services was routed to bank account of Bangalore branch instead of Delhi branch which led revenue to conclude that 'supplier' of services (Delhi branch) had not received payments, thus, invalidating refund - HELD : Section 2(6)(iv) of IGST Act does not specify particular bank account where payment must be received but rather that it should be received by supplier - Merely because payment of service provided by assessee was received in a bank account situate at Bangalore, same would neither warrant location of supplier identified in accordance with section 2(15) being altered nor impact determination of actual supplier of service - Revenue's objections based on bank account remittance were overly technical and was unsustainable - Thus, order-in-appeal which had upheld order-in-original rejecting assessee's application for refund was to be quashed [Section 54 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017 - Section 2(6) read with section 2(15) of Integrated Goods and Services Tax Act, 2017.

**6] TVL Annai Abirami Electricals V.Com. of Commercial Taxes, Chennai-2024((91) G.S.T.L.163-Madras High Court-**

Input tax credit - Denial of - Natural justice - Period 2019-20 - Petitioner-assessee filed its return and paid appropriate taxes - While submitting return, assessee inadvertently entered input tax credit in column 4(A)(3) instead of Section 4(A)(5) - A notice was issued, proposing to reject returns on premise that assessee had not declared correct tax liability while filing annual returns found in GSTR-09 - Assessee submitted that column 4(A)(3) was related to reverse charges and during relevant period assessee had no liability on reverse charge - Impugned order of assessment was passed, whereby reply of assessee was rejected by merely stating that respondent authority was not satisfying with assessee's reply - HELD : Impugned order was a non-speaking order and thus suffered from violation of principles of natural justice - Impugned order was to be set aside [Section 16, read with section 75, of Central Goods and Services Tax Act, 2017/ Tamil Nadu Goods and Services Tax Act, 2017.

**7]Gu Ocean Pvt.Ltd.Vs.Deputy Com(ST),GST Appeal, Chennai-II- 2024(91) G.S.T.L.172- Madras High Court-**

Appellate authority - Appeals to - Limitation period - Condonation of delay - An assessment order was passed on 31-12-2023 - Assessee had paid admitted tax and pre-deposit for filing appeal on 13-3-2024 - Appeal was filed manually by assessee on 22-3-2024 - Said appeal was rejected on 26-7-2024 stating that appeal had to be filed only through online portal - Assessee made an attempt to file appeal through online portal - Same was also not accepted on ground of limitation - HELD : Justice had to be rendered to assessee by providing an opportunity to present their case before concerned authority - Therefore, in interest of justice, impugned order was to be set aside and appellate authority was to be directed to take appeal which was filed manually on record [Section 107 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017.

**8]Schulke India Pvt.Ltd. Vs.Union of India -2024(91)G.S.T.L.225- Bombay High Court-**

Instructions or directions - Board's power to issue - Product classification, change in - Issue as to whether a product falls within a particular class after law is already enacted and classification is already made falls within province of judicial and quasi-judicial authorities created under Act -Any press release or executive instruction would interfere with judicial or quasi-judicial functions of such authorities which cannot be allowed [Section 168 of Central Goods and Services Tax Act, 2017/ Maharashtra Goods and Services Tax Act, 2017 - Article 73, read with Article 77 of Constitution of India.

**9]Banaras Industries Vs.Union of India- 2024(91) G.S.T.L.233- Allahabad High Court-**

Detention of goods and conveyance in transit - E-way bill and invoice - Goods were detained on ground that e-way bill was not produced - E-way bill was produced before seizure order was passed - No finding was recorded with regard to intention to evade legitimate amount of tax - **HELD** : No specific reason was indicated by authorities that would indicate an intention for evasion of tax - Tax and penalty could not be imposed in absence of intention to evade tax - Impugned order was to be quashed and concerned authority was to be directed to refund amount of tax and penalty, if any, deposited [Section 129 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017.

**10]Bawa International Vs Joint Com.of C.G.S.T., Appeal-I,Delhi – 2024(91) G.S.T.L.242- Delhi High Court-**

Refund of tax - Denial of - Refund pursuant to appellate order - Refund claim was filed pursuant to appellate order awarding refund - Assessee’s claim for refund was approved in appeal - Order-in-Appeal had neither been questioned nor assailed by respondents - However, refund was not processed as Deputy Commissioner was of opinion that Order-in-Appeal was not legally sustainable - **HELD**: Since Order-in-Appeal had attained finality, stand taken by Deputy Commissioner was not tenable - Accordingly, assessee was to be allowed refund along with statutory interest [Section 54 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017.

Interest - Delayed refund - Rate of interest - Refund was claimed pursuant to appellate order awarding refund - Assessee’s claim for refund under section 54 was approved in appeal - **HELD** : If an application for refund is not processed within a period of sixty days of filing refund application, assessee would be entitled to interest at rate of 9 per cent per annum as per section 56 of CGST Act - However, this does not mean that interest at rate of 6 per cent per annum was not payable for period commencing from date immediately after expiry of sixty days from his first application till sixty days after filing of his second application pursuant to appellate orders - Accordingly, assessee was to be allowed refund along with statutory interest at rate of 9 per cent per annum [Section 56, read with section 54, of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017.

**F] GST portal updates**

**1] Advisory on sequential Filing of GSTR-7 Returns:** The filing of GSTR-7 has been made sequential as per Notification No. 17/2024-Central Tax. Taxpayers must file returns in chronological order starting from October 2024. If no tax deduction is made in a particular month, a Nil return must be filed. Previous FAQs stating that sequential filing is not mandatory are now outdated. For assistance, taxpayers may contact the GSTN helpdesk.

**2] Advisory on difference in value of Table 8A and 8C of Annual Returns FY 23-24:** From FY 2023-24 onwards, as per Notifications No. 12/2024 and 20/2024-Central Tax, the total ITC on inward supplies will be auto-populated in Table 8A of GSTR-9 from GSTR-2B instead of GSTR-2A. ITC on inward supplies received in FY 2023-24 but availed in the next FY (within the specified period) must be manually reported in Table 8C.

Concerns have been raised about mismatches between Tables 8A and 8C in GSTR-9 for FY 2023-24. This is because, unlike FY 2022-23 (where Table 8A values were derived from GSTR-2A), for FY 2023-24, they are sourced from GSTR-2B. As a result, Table 8A may reflect inflated values for FY 2022-23 and lower-than-expected values for FY 2023-24.

Sr. No.	Issue	Reporting in GSTR 9
1	Invoice having the date of FY 23-24 but the supplier has reported in the GSTR 1 after the	Taxpayer shall report such ITC in the Table 8C and in Table 13 as this is the ITC of FY

	due date of March'24. As a result, this amount is not auto populated in the Table 8A of GSTR 9 for FY 2023-24 because it is the part of next years GSTR 2B. How to report such transaction in the GSTR 9 of FY 23-24?	2023-24. This is in line with the instructions to the Table 8C and Table 13 of GSTR 9
2	Invoice belongs to FY 23-24 and ITC has been claimed in FY 23-24. Due to payment not made to supplier within 180 days, ITC was reversed in 23-24 as per the second proviso to section 16(2) and this ITC is reclaimed in next Year FY 2024-25, after making the payment to supplier. How to report such transaction in the GSTR 9 of FY 23-24?	This reclaimed ITC shall be reported in the table 6H of GSTR 9 for FY 24-25 hence not in the Table 8C and Table 13 of GSTR 9 of FY 2023-24. This is in line with the Instruction to the Table 13 given in the Notified Form GSTR 9. Similar reporting is applicable for the ITC reclaimed as per Rule 37A
3	Invoice belongs to FY 2023-24 but goods not received in 23-24 therefore ITC is claimed in Table 4A5 of GSTR 3B and reversed in Table 4B2 as per the guidelines of Circular 170 and such ITC reclaimed in next FY 2024-25 till the specified time period. How to report such transaction in the GSTR 9 of FY 23-24?	Taxpayer shall report such reclaimed ITC in the Table 8C and Table 13 as this is the ITC of FY 2023-24.
4	Invoice belongs to FY 22-23 which is appearing in the Table 8A of GSTR 9 of FY 23-24 , as the supplier would have reported the same in GSTR 1 after the due date of filing of GSTR-1 for the tax period of March 23. How to report such transaction in the GSTR 9 of FY 23-24?	This is the ITC of last year (2022-23) and was auto populated in table 8A of GSTR-9 of FY 22-23. Hence, aforesaid value need not to be reported in the table 8C and Table 13 of GSTR-9 for FY 23-24. This is in line with the instruction no 2A given for the notified form GSTR 9 which states that Table 4,5,6 and Table 7 should have the details of current FY only
5	Where to report the reclaim of ITC for an Invoice which belongs to FY 2023-24, and which is claimed, reversed and reclaimed in the same year?	<p>As already clarified by the CBIC press release 3rd July 2019 in the para k, It may be noted that the label in Table 6H clearly states that information declared in Table 6H is exclusive of Table 6B. Therefore, information of such input tax credit is to be declared in one of the rows only.</p> <p>Further, as the claim and reclaim is reported only in one row therefore the same should not be reported in the reversal under table 7 of GSTR 9 of FY 23-24.</p>

**3] Advisory on Updates to E-Way Bill and E-Invoice Systems:** GSTN has announced updates to the E-Way Bill and E-Invoice Systems, effective from 1<sup>st</sup> January 2025, to enhance security and compliance.

**1. Mandatory Multi-Factor Authentication (MFA):**



- Currently mandatory for taxpayers with AATO > ₹100 Crores and optional for AATO > ₹20 Crores.
- From 1st Jan 2025: Mandatory for AATO > ₹20 Crores.
- From 1st Feb 2025: Mandatory for AATO > ₹5 Crores.
- From 1st Apr 2025: Mandatory for all taxpayers and users.
- Taxpayers should activate MFA and ensure their registered mobile numbers are updated.

## 2. Restriction on E-Way Bill (EWB) Generation:

- EWB can only be generated for documents dated within 180 days from the generation date.  
Example: From 1st Jan 2025, documents dated before 5th July 2024 cannot be used for EWB generation.

## 3. Limitation on EWB Extension:

- EWB extensions will be restricted to 360 days from the original generation date.  
Example: An EWB generated on 1st Jan 2025 can only be extended till 25th Dec 2025.

Taxpayers are advised to familiarize themselves with these changes and update their compliance processes accordingly. For further details, visit the E-Way Bill and E-Invoice portals.

**4] Advisory for Entry of RR No./eT-RRs in EWB system Post EWB-FOIS Integration:** The Freight Operation Information System (FOIS) of Indian Railways has been integrated with the E-Way Bill (EWB) system via APIs. Taxpayers transporting goods via FOIS must accurately enter the Railway Receipt Number (RR No.)/eT-RRs in the EWB system to avoid discrepancies

1. **Applicability:** Taxpayers using Indian Railways for transportation must ensure the correct entry of RR No./eT-RRs in a standardized format.

### 2. Updating Part-B of EWB for Rail Transport:

- If goods are first transported from the factory to a railway station under an existing EWB, taxpayers must update **Part-B** of the EWB using the "**Multi-Transport Mode**" option and select **Rail** as the mode of transport.
- The system will then prompt entry of the **RR No./eT-RRs**.

### 3. Format for Entering RR No./eT-RRs:

- The format is **F<FromStationCode><RR No.>**.
- Example: If dispatched from **SJWT** with RR No. **123456789**, it should be entered as **FSJWT123456789** in the EWB system.

### 4. Validation of RR No./eT-RRs:

- The EWB system will cross-check the **RR No./eT-RRs** with FOIS data.
- If there is a mismatch, an alert will be generated, so accurate entry is essential.

### 5. Importance of Accuracy:

- Correct entry ensures **smooth tracking and verification** of goods transported by rail.
- It also facilitates **seamless validation**, preventing unnecessary delays.

### 6. Support & Assistance:

- Taxpayers facing discrepancies should **raise a ticket** with the support team, mentioning the **RR No./eT-RRs**.

- Those using the FOIS system should also comply with Indian Railways' guidelines for e-Demand customers.

Taxpayers are urged to adhere to these guidelines for smooth compliance.

**5] Advisory for Entry of Receipt Numbers Pertaining to Leased Wagons in the E-Way Bill System:** This advisory provides specific instructions for entering **Receipt Numbers** related to **Leased Wagons** in the **E-Way Bill (EWB)** system. It follows previous advisories on the correct format for entering **Parcel Way Bill (PWB)** numbers and **Railway Receipt (RR)** numbers under the **Parcel Management System (PMS)** and **Freight Operations Information System (FOIS)**.

#### Key Instructions:

##### 1. Prefixing Receipt Numbers:

- Taxpayers transporting goods via **Leased Wagons** must **prefix the Receipt Number with "L"** when entering it into the EWB system.
- For reference, **PWB numbers (PMS)** require the prefix **"P"** and **RR numbers (FOIS)** require the prefix **"F"**.
- These changes will be **mandatory from 1st January 2025**.

##### 2. Updating Part-B of the EWB for Rail Transport:

- While generating an **EWB** for rail transport, taxpayers must select **"Rail"** as the mode of transport using the **"Multi-Transport Mode"** option.
- The **Receipt Number** must be entered with the prefix **"L"** to indicate transportation via **Leased Wagons**.

##### 3. Format for Number Entry:

- The required format is **L**.
- Example: **L123456789**.

##### 4. Validation in the EWB System:

- The EWB system will **verify the Receipt Number** against the designated database.
- If any mismatch or missing entry is detected, an **alert will be issued**, requiring taxpayers to correct the information.

##### 5. Assistance and Support:

- Taxpayers facing issues can **raise a ticket** with the EWB support team, providing the **Receipt Number and prefix** used for quick resolution.

Adhering to these guidelines will ensure smooth processing of **E-Way Bills** and seamless transportation of goods via **Indian Railways' Leased Wagons**.

**6] Advisory for Waiver Scheme under Section 128A:** Taxpayers are advised to refer to the **advisory** issued by GSTN on 08.11.2024. Under the **waiver scheme**, taxpayers who have received a **demand notice, statement, or order under Section 73** for tax periods between **July 2017 and March 2020** must file an application in **FORM GST SPL-01 or SPL-02** on the GST portal. Currently, **FORM GST SPL-02** is available, while **FORM GST SPL-01** will be made available soon.

For step-by-step guidance on filing **FORM GST SPL-02** electronically, taxpayers can refer to the **help document** as provided on the common portal.



Any difficulties faced in the process can be reported by raising a ticket under the category "Issues related to Waiver Scheme" at: GST Self-Service Portal.

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