August 2023 Edition

Recent Rulings by Courts and Authorities

High Court

Time limit prescribed under Section 16(4) of CGST Act[1] to claim ITC held valid

In the case of ***Thirumalakonda Plywoods vs. The Assistant Commissioner – State Tax***[2], the petitioner filed the return for March 2020 in November 2020, along with the prescribed late fee. The revenue authorities denied the ITC claimed by the petitioner and imposed interest and penalty for wrongful availment of ITC, as the ITC was claimed beyond the time limit prescribed under Section 16(4) of the CGST Act.

Aggrieved by the same, the petitioner approached the High Court of Andhra Pradesh ("**Andhra HC**"). The Andhra HC ruled on the following questions of law:

1. Whether time limit prescribed under Section 16(4) of the CGST Act to claim ITC is violative of Article 14, 19(1)(g) and 300A of the Constitution of India and hence, is liable to be struck down?

   a) ITC is a mere concession/ rebate/ benefit but not a statutory or constitutional right and therefore imposing conditions including time limit for availing the said concession are not violative of the Constitution of India or any statute.

   b) The operative spheres of Section 16 and constitutional provisions under Articles 14, 19(1)(g) and 300-A are different and hence the question of infringement of constitution rights of the petitioner does not arise. In order to establish legislative arbitrariness, it must be proved that the action was not reasonable or done capriciously or at pleasure, non-rational, not done or acting according to reason or judgment but depending on the will alone, which was absent in the present case.

2. Section 16(2) of the CGST prescribes conditions for availing ITC. 16(2) is a *non-obstante* provision in the sense that if the conditions laid down under Section 16(2) of the CGST Act are fulfilled, then whether the time limit prescribed under Section 16(4) becomes insignificant?

   a) The Andhra HC highlighted that it is trite that a *non-obstante* clause is a legislative device used to give overriding effect over contradictory provisions of the same or other statute. While interpreting such clauses, the courts should analyze the intent and scope of that *non-obstante* clause.

   b) Both Section 16(2) and (4) are 2 (two) different restrictive provisions, the former providing eligibility conditions to avail ITC and the latter imposing time limit to claim such ITC. Had the legislature not intended to impose time limitation for availing ITC, there would have been no necessity to insert a specific provision under

[1] Central Goods and Service tax Act, 2017

[2] TS-349-HC(AP)-2023-GST

Section 16(4) and to further intend to override it through Section 16(2). Therefore, Section 16(4) being a non-contradictory provision and capable of clear interpretation, it will not be overridden by Section 16(2).

3. Whether filing of returns with prescribed late fee can whittle down the conditions to claim ITC?

   The conditions stipulated in Section 16(2) and (4) are mutually different and both will operate independently. Collection of late fees is only for the purpose of admitting the returns for verification of taxable turnover of the petitioner but not for consideration of ITC. Therefore, mere filing of the return with a late fee will not stifle the statutory conditions contained under Section 16(2) and (4).

JSA Comment: Validity of the time limit for claiming ITC in terms of Section 16(4) is challenged in several proceedings before jurisdictional High Courts. Given that there are practical difficulties which often arise for claiming credits before the due date by the assessees, this ruling comes as a set-back, especially in those situations where assesses have complied with other substantive provisions for claiming ITC. It is quite likely that the matter may reach the Supreme Court for a final verdict and till such time the uncertainty may prevail on this issue.

ITC[3] and GST[4] liability of corporate debtors undergoing CIRP[5] gets lapsed and cannot be transferred to the new company

In the case of ***ESL Steel Limited vs. Principal Commissioner***[6], CIRP proceedings were initiated against the petitioner and were approved by the NCLT[7] on April 17, 2018 ("**NCLT Date**"). Based on the relief granted by the Hon'ble Supreme Court to file revised Form TRAN-1[8], the petitioner revised its Form TRAN-1 on November 30, 2022 to avail unclaimed credits (additional credit of INR 92,13,412 (Indian Rupees ninety two lakh thirteen thousand four hundred twelve) was claimed in the revised Form TRAN-1). The additional credit was intended to be claimed after the NCLT Date. The revenue authorities, however, highlighted irregularities in credits claimed in both original and revised Form TRAN-1 and disallowed the total credit therein (including the credits claimed prior to the NCLT Date) *vide* order-in-original dated February 24, 203 ("**OIO**") and sought to recover the same along with interest and penalty.

Aggrieved by the OIO, the petitioner filed a writ petition before the High Court of Jharkhand ("**Jharkhand HC**"), seeking to quash the OIO and directing revenue authorities to restore its revised Form TRAN-1.

The Jharkhand HC observed that it is established in the matter of ***Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited***[9] that no recovery and/ or proceeding can be continued against a corporate debtor for any alleged dues prior to the NCLT Date. It was further observed that where the liability of the earlier management is not shifted to the current management, the credit available to the earlier management will also not be available to the current management as, the current management was not the taxpayer for procurements made by the Petitioner prior to the NCLT Date.

Therefore, in view of the decision in the Ghanshyam matter (*supra*), the Jharkhand HC quashed the OIO, to the extent it disallowed credits claimed by the Petitioner in original Form TRAN-1, filed prior to the NCLT Date. Further, the Jharkhand HC disallowed unclaimed credits in revised Form TRAN-1, filed after the NCLT Date.

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3 Input tax credit

4 Goods and Services Tax

5 Corporate Insolvency Resolution Process

6 TS-323-HC(JHAR)-2023-GST

7 National Company Law Tribunal

8 Union of India vs. Filco Trade Centre Private Limited – SLP (C) No. 32709-32710/2018

9 (2021) 9 SCC 657

Custom, Excise, and Service Tax Appellate Tribunal (CESTAT)

Availability of concessional rate of basic customs duty on import of earphones with microphones

In the case of ***Sennheiser Electronics India Pvt. Ltd. vs. Principal Commissioner, Customs (Import)***[10], Sennheiser Electronics India Pvt. Ltd. ("**Appellant**") had imported 2 (two) categories of earphones namely, CX 275s and CX180. While model CX 275 earphones had microphones, model CX180 earphones did not. On importation, the Appellant classified both categories of earphones under customs tariff heading 8518 30 00, attracting basic customs duty of 15%. However, the Appellant claimed the benefit of exemption[11], which exempts all goods falling under customs tariff heading 8518 except "*the following parts of cellular mobile phones, namely, microphone, wired headset, receiver*" in excess of 10%.

During the post audit clearance of goods, the authorities were of the view that such goods 'wired headset' were a part of cellular mobile phones, and therefore not eligible for the exemption. Accordingly, the Principal Commissioner issued an OIO[12] demanding differential duty along with interest on model CX 275s earphones. Aggrieved by the OIO, the Appellant filed an appeal before CESTAT New Delhi.

The Appellant contended that earphones are not considered parts of cellular mobile phones and the expressions "parts or sub-parts or accessories to cellular mobile phone" provided in the exemption notification should be treated as distinct and in separate categories. It was further contended that model CX 275s earphones have 2 (two) speakers for the ears and an inbuilt microphone, making them compatible with cell phones and various other devices like laptops, iPads, and desktops.

The CESTAT agreed with the contentions of the Appellant and observed that the intent of Entry No. 18 of the exemption notification is to exclude microphones, wired headsets and receivers as are parts of cellular mobile phones. Given that the model CX 275s earphones can be used with variety of devices including cellular mobile, phones and it, therefore, cannot be considered as part in any of the devices including cellular mobile. Accordingly, CESTAT set aside the demand raised against the Appellant.

Appellate Authority for Advance Ruling (AAAR)/ Authority for Advance Ruling (AAR)

Charging electric batteries of electric vehicles (EV) amounts to a taxable supply of service subject to GST at 18%

In the matter of ***Chamundeswari Electricity Supply Corporation Limited***[13], the AAR ruled on the taxability of the activity of charging electric battery used by EVs. The applicant proposes to supply electricity to various companies, industries, individuals, hospitals, etc., for setting up public charging stations (PCS) for charging two and four-wheeler EVs. The customers would be charged 'electric vehicle charging fee' consisting of 2 (two) components viz. 'energy charges' (refers to number of units of energy consumed) and 'service charges' (refers to services provided by PCS).

The AAR observed that in the present case, the activity of EV charging involves conversion of electric energy to chemical energy at PCS. Electricity, which is a 'moveable' property and classified as goods, is not supplied as such to the EV owner, rather it is converted into chemical energy. The EV owner does not receive electricity as such and receives only chemical energy stored in the battery.

The AAR also placed reliance on the guidelines issued by the Ministry of Power *vide* letter no. 23/08/2018-R&R dated April 13, 2018, which state that charging of an EV battery by a PCS involves utilization of electrical energy for its conversion to chemical energy, which gets stored in the EV battery. Therefore, the activity involves a service requiring

10 2023 (7) TMI 839

11 Notification No. 57/2017-Cus dated June 30, 2017, as amended by Notification No. 22/2018-Cus dated February 02, 2018 (S. No. 18)

12 Order-in-Original

13 2023 (7) TMI 869 - Authority for Advance Rulings, Karnataka

consumption of electricity by PCS and earning revenue from the EV owner for the same. The activity does not involve further distribution or transmission or sale of electricity. A similar analogy was drawn by analyzing the provisions of the Electricity Act, 2003.

Based on the above, the AAR held that the activity of charging EV at PCS does not amount to supply of electricity. It amounts to supply of service, i.e., 'Battery charging service' for motor cars, classified under SAC 998714 and is subject to GST at 18%. Further, the entire 'electric vehicle charging fee' consisting of two components viz. 'energy charges' and 'service charges' will be treated as consideration towards the said supply of service and will be subject to GST.

Rent paid for accommodation in hostel not exempt from payment of GST

Karnataka AAR ruled upon the taxability of hostel accommodation in the matter of ***Srisai Luxurious Stay LLP***[14]***.*** Srisai Luxurious Stay LLP ("**Applicant**") was engaged in the business of developing, maintaining, renting/ sub-letting paying guest accommodations, service apartments and flats to end-customers. Along with the renting/ lodging the Applicant also provides ancillary services such as providing meals, washing machine facility, internet facility, etc.

The Applicant contended that the accommodation services provided were falling under the category of residential dwelling, which were covered under entry no. 12 of the Exemption Notification[15], and thereby not being subject to GST. However, the AAR observed that the services provided by the Applicant were in the nature of hotel/ guest house. AAR further observed that to be eligible for claiming exemption under entry no. 12 of the Exemption Notification, the accommodation provided must be in nature of a permanent stay and not a temporary stay. Given that the accommodation services provided were temporary in nature, the Applicant cannot be said to have rented residential dwelling, thereby, not being eligible for exemption provided under Entry no. 12 of the Exemption Notification.

For ascertaining the taxability of ancillary services provided along with the accommodation services, the AAR observed that such ancillary services were not naturally bundled with the supply of accommodation services. Therefore, such ancillary services are required to be taxed separately, as per the applicable rate of GST.

Similarly, the Uttar Pradesh AAR in the matter of ***V.S Institute and Hostel Pvt. Ltd.***[16], observed that hostels provided for accommodation services typically are maintained for commercial purposes and are accordingly at par with hotel services. Therefore, hostel services cannot be eligible for exemption provided under entry no. 12 of the Exemption Notification.

Recoveries made from employees towards canteen/ transport services, not forming part of employment contract, are 'consideration' for supply of services subject to GST

In the case of ***Kothari Sugars and Chemicals Limited***[17]***,*** the Appellant, a manufacturer, had set-up a canteen facility (as mandated under the Factories Act, 1948) for the benefit of its employees and workers. For provision of such facility, the Appellant used to recover a nominal amount (at subsidized rates) from the employees and pay to the caterer. The question before the Tamil Nadu AAAR was whether recovery of the said nominal amount would attract GST.

The Appellant contended that such nominal amount recovered from the employees would be treated as 'perquisites' forming part of the employment contract, which are excluded from the purview of GST as per Circular No. 172/04/2022 – GST dated July 6, 2022 ("**Circular**"). Further, such recovery of canteen cost from employees was a mere cost sharing arrangement between the employees and the Appellant, which could not be treated as 'consideration'.

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14 2023 (7) TMI 870 - Authority for Advance Rulings, Karnataka

15 Entry No. 12 of Notification No. 12/ 2017-Central Tax (Rate), dated June 28, 2017

16 TS-327-AAR(UP)-2023-GST

17 TS-309-AAAR(TN)-2023-GST

On perusal of the appointment letter issued by the Appellant to its employees, the AAAR observed that the clause states that "*employees will be eligible for only those benefits as applicable to others of the same cadre".* The AAAR ruled that such clause is generic and the same cannot be construed to mean that the supply of food was on account of contractual agreement between the Appellant and its employees. In order to claim the benefit of exemption available under the Circular, the relevant perquisites should be expressly mentioned in terms of the employment agreement. Based on the above, the AAAR held that nominal amount recovered from employees was outside the purview of 'perquisites' and is 'consideration' for supply of food by the Appellant to the employees at subsidized rates. Hence, the transaction will be construed to be supply of services, subject to GST.

Based on the same principle, the Gujarat AAR in the case of ***Tata Autocomp Systems Limited***[18], held that if nominal deductions made from employees' salary towards provision of canteen and/or transport services were explicitly mentioned in the Canteen and Transport Policies, such recoveries are outside the purview of GST and hence, do not constitute a supply.

Notifications, Circulars, Instructions

Requirement of mandatory registration for persons supplying goods through ECO[19] waived off

Notification No. 34/2023- Central Tax dated July 31, 2023

Persons supplying goods through an ECO, with an aggregate turnover not exceeding the threshold limit[20] (in the preceding financial year and in the current financial year), are exempted from obtaining GST registration, subject to fulfilment of the following conditions:

1. such persons should not make any inter-State supply of goods;
2. such persons should not make supply of goods through ECO in more than one State or Union territory;
3. such persons should have a PAN;
4. such persons should, before making any supply of goods through ECO, declare on the common portal their PAN, address of their place of business and the State or Union territory in which such persons seek to make such supply, which shall be subjected to validation on the common portal;
5. such persons have been granted an enrolment number on the common portal on successful validation of the PAN;
6. such persons shall not be granted more than one enrolment number in a State or Union territory; and,
7. no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal.

Amendments proposed by Finance Act 2021 and Finance Act 2023 notified

Notification No, 27/2023 – Central Tax and Notification No. 28/2023 – Central Tax dated July 31, 2023 read with Notification No. 01/2023 – Integrated Tax dated July 31, 2023

The Central Government has notified August 1, 2023, as the effective date for provisions related to the constitution of GSTAT[21] and benches thereof.

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18 TS-286-AAR(GUJ)-2023-GST

19 Electronic Commerce Operator

20 Aggregate turnover above which a supplier is liable to be registered in the State in accordance with Section 22(1) of the CGST Act i.e., INR 20,00,000 (Indian rupees twenty lakh) (general category states) and INR 10,00,000 (Indian rupees ten lakh) (special category states)

21 Goods and Services Tax Appellate Tribunal

Further, October 1, 2023 has been notified as the effective date for the following amendments:

1. Amendments proposed in Section 16 of the IGST Act[22] *vide* Finance Act 2021:
   a) Supply of goods or services to a SEZ[23] developer or unit will be zero-rated provided the said supply is meant for authorized operations of such SEZ developer or unit.
   b) The Government has notified that all goods or services may be exported on payment of IGST and the supplier may claim the refund of tax so paid, except for specified goods such as pan masala, tobacco and tobacco products, essential oils of peppermint and other specified mints, etc.
2. Key amendments proposed *vide* Finance Act, 2023:
   a) ITC of GST paid on expenditure incurred towards CSR[24] restricted under Section 17(5) of the CGST Act;
   b) The value of supply of warehoused goods before clearance for home consumption to be considered as 'exempt supply' under explanation to Section 17(3) of the CGST Act, thereby requiring reversal of ITC on such transaction.
   c) Time-limit for filing of returns/ periodical statements in Forms GSTR-1, GSTR-3B, GSTR-8 and GSTR-9 restricted to a maximum period of 3 (three) years from the due date of filing of such return/ statement.
   d) Penalties of INR 10,000 (Indian rupees ten thousand) or amount of tax involved for ECOs allowing supplies effected through them by unregistered persons, persons not eligible for making inter-state supplies or failure to furnish correct details of supply of goods effected through them.
   e) Offences such as obstructing or preventing the officer from discharging his duties, tampering or destroying any material evidence or documents and failure to supply any information which is required to be supplied under GST laws, are decriminalized.
   f) Monetary limits for various offences such as supply of goods or services without issue of invoices, fraudulent availment of ITC, evading tax, etc. has been increased from INR 1,00,00,000 (Indian rupees one crore only) to INR 2,00,00,000 (Indian rupees two crore only) for launching prosecution under the CGST.
   g) Following inclusions (Para 7 and Para 8) under Schedule III to the CGST Act introduced on August 30, 2018 (with effect from February 1, 2019) are deemed to have been made with effect from July 1, 2017:
      i) Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India;
      ii) Supply of warehoused goods to any person before clearance for home consumption;
      iii) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
   h) The definition of 'non-taxable online recipient' simplified to include persons not registered under the provisions of the GST law, at the same time including persons who are registered solely for the purpose of deduction of tax at source such as department or establishment of Central Government/ State Government, local authority and Government agencies.
   i) The condition of "essentially automated and involving minimal human intervention" removed from the definition of OIDAR services.

[22] Integrated Goods and Services Tax Act, 2017

[23] Special Economic Zone

[24] Corporate social responsibility

Government authorizes GSTN[25] to seek information under PMLA[26]

G.S.R. 491(E) dated July 7, 2023

The Government has authorized Director, Financial Intelligence or any other authorized person to share information with the GSTN, obtained by such authority, for performing its functions under the PMLA.

Assam Government mandates furnishing valid rent agreement/ lease deed for seeking GST registration

Circular No. 01/2023 dated July 07, 2023

Assam Government has mandated furnishing of valid rent agreement/ lease deed duly registered with sub-registrar or competent authority, for obtaining registration under the GST laws. This is to prevent fake/ bogus registration, considering that many unscrupulous persons/entities were obtaining GST registration basis forged documents like electricity bills, rental agreement, etc.

JSA Comment – In practice, this requirement of furnishing valid rent agreement/ lease deed was already insisted upon by the authorities. This will cause undue hardships to assessees in obtaining registrations leading to delays, especially in co-working environment, where there are no lease deeds/ agreements.

Circulars issued to implement recommendations made during 50th GST Council meeting

CBIC[27] has issued suitable circulars on July 17, 2023 and August 1, 2023 to implement various recommendations made during the 50th GST Council Meeting held on July 11, 2023. Aspects clarified in key circulars are provided below:

Circular No. and subject	Key aspects of the clarifications issued
192/04/2023-GST ***Charging of interest under Section 50(3) of CGST Act for wrong availment of IGST credit and reversal thereof***	• Interest on wrongly availed ITC of IGST will become payable only when wrongly availed and utilized IGST credit exceeds the cumulative balance of IGST, CGST and SGST in the ECL[28]. • Balance of Compensation Cess available in ECL will not be considered for calculation of interest in respect of wrongly availed and utilized IGST, CGST or SGST ITC.
194/04/2023-GST ***TCS[29] liability under Section 52 of CGST Act in case of multiple ECO[30] in one transaction***	• Collection of TCS along with other compliances are required to be undertaken by the supplier side ECO, who finally releases the payment to the supplier for a particular supply made by him. • In a transaction involving multiple ECOs, the buyer side ECO will neither be required to collect TCS nor will be required to undertake other compliances in accordance with Section 52 of the CGST Act. • However, when the supplier side ECO is himself the supplier, TCS is to be collected by the buyer side ECO while making payment.

25 Goods and Services Tax Network
26 Prevention of Money-Laundering Act, 2002
27 Central Board of Indirect Taxes and Customs
28 Electronic Credit Ledger
29 Tax Collected at Source
30 E-commerce operator

Circular No. and subject	Key aspects of the clarifications issued
195/04/2023-GST ***Availability of ITC in respect of warranty replacement of parts and repair services during warranty period***	• In case of free supply of replacement of parts and/or repair services to a customer during warranty period, no GST is payable. Further, OEM[31] and distributor are not required to reverse any ITC. However, GST is payable if additional consideration is charged. • GST is payable if the distributor provides parts (from its own stock or procured from third parties)/ services to customers and charges the same to the OEM. OEM can avail ITC of such GST paid. • Where the distributor replaces the part to the customer out of the supply already received by him from the OEM, OEM can issue GST credit note and adjust its output tax liability subject to reversal of ITC by the distributor. • If an extended warranty is supplied at the time of original supply of goods, it becomes a part of composite supply and GST is payable on extended warranty charges as per principal supply. However, if an extended warranty is supplied after the original supply of goods, it becomes a separate supply and GST is payable accordingly.
196/04/2023-GST ***Taxability of shares held in a subsidiary company by the holding company***	• 'Shares' are a part of 'securities' and are excluded from the definition of 'goods' and 'services' for the purposes of GST laws. Accordingly, sale or purchase of shares in itself is neither a supply of goods nor of services. • Such transactions cannot be taxed merely because of the existence of SAC Code which covers services of holding securities of companies for the purpose of controlling interest.
197/04/2023-GST ***Refund related issues***	• With effect from January 1, 2022, an assessee can claim ITC only to the extent of invoices appearing in Form GSTR-2B. It has been clarified that availability of refund of accumulated ITC under Section 54(3) of CGST Act will be restricted to ITC as per invoices which are reflected in Form GSTR-2B. This will be applicable for refund filed for period beginning January 2022 onwards. • Suitable amendments have been made in the undertaking in Form GST RFD-01 pursuant to deletion of Section 42 of the CGST Act and amendment in Section 41 of the CGST Act pertaining to deletion of Form GSTR-2 and Form GSTR-3 as well as the concept of provisionally ITC acceptance. • Value of goods exported out of India will be included while calculating "adjusted total turnover" for the purpose of Rule 89(4) of CGST Rules. • Where the goods are not exported or payment against export of services is not received within the prescribed time under Rule 96A(1) of CGST Rules, then on actual export of goods or on realization of payment for export of services, the following will apply: - Exporters will be entitled to refund of unutilized ITC in terms of Section 54(3) of the CGST Act;

[31] Original equipment manufacturer

Circular No. and subject	Key aspects of the clarifications issued
	- Exporters can also claim a refund of IGST paid in compliance of Rule 96A(1) of CGST Rules. However, refund of interest will not be allowed.
199/04/2023-GST ***Taxability of services provided by an office of an organization in one State to the office of that organization in another State, both being distinct persons***	• Under the present law, Head Office ("**HO**") has an option to distribute ITC in respect of common input services by following ISD mechanism. Alternatively, HO can opt to raise tax invoice on Branch Office ("**BO**") for cross charging common input services. • In respect of internally generated services from HO to BO for which full ITC is available, value declared on the invoice will be deemed as Open Market Value (OMV) in terms of Proviso to Rule 28 of the CGST Rules, irrespective of whether cost of any component such as salary cost is included or not in the value of service. • In case a tax invoice is not issued for any specific service rendered by HO to BO, the value of such service can be deemed as NIL by the HO to BO which may be deemed as OMV in terms of Proviso to Rule 28 of the CGST Rules. • In respect of internally generated services from HO to BO for which full ITC is not available, cost of employee salary is not required to be included in the value of service by the HO to BO.
200/13/2023-GST ***Clarification regarding applicability of GST on certain goods***	• Supply of raw cotton, including kala cotton, from agriculturists to cooperatives is a taxable supply and such supply of raw cotton by agriculturist to the cooperatives attracts 5% GST on reverse charge basis
201/13/2023- GST ***Clarifications regarding applicability of GST on certain services***	• Services supplied by a director of a company to the company in his private or personal capacity (such a services by way of renting immovable property to the company) are not taxable under RCM. Only those services supplied by the director of company which are supplied by him as or in the capacity of director of that company will be taxable under RCM in the hands of the company. • Supply of food or beverages in a cinema hall is taxable as 'restaurant service' and attracts GST at the rate of 5%, provided the following 2 (two) conditions are met: - the food or beverages are supplied by way of or as part of a service, and, - supplied independent of the cinema exhibition service However, where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate of 18% as applicable to service of exhibition of cinema, being the principal supply.

HS[32] Code (2007 version) mentioned in CoO[33] to be correlated with HS Code (2022 version) mentioned in BE[34]

Instruction No. 19/2023 – Customs dated July 04, 2023

India Japan Comprehensive Economic Partnership Agreement (CEPA) was negotiated and operationalized on the basis of HS 2007. The CoO, required to be obtained for complying under CEPA, must contain six-digit tariff classification as per HS 2007. However, with transposition to HS 2022, there were instances having mismatch between HS Code mentioned in CoO and that mentioned in BE. In this regard, it is clarified that for the purpose of Customs clearance, the HS Code (2007 version) mentioned in the CoO must be co-related with HS Code (2022 version) mentioned in the BE at the time of clearance.

Other Updates

Online functionality in respect of the difference in tax liabilities between Form GSTR 1 and Form GSTR 3B

The GSTN has issued an advisory about the new online functionality that enables the taxpayers to provide reasons for differences in tax liabilities declared in Form GSTR 1/ Invoice Furnishing Facility vis à vis taxes paid while filing Form GSTR3B.

Geocoding functionality made live for all States and Union Territories

With a view to ensure accuracy of address details in GSTN records and streamline the address location and verification process, the GSTN has made the functionality for geocoding[35] the principal place of business address for all States and Union Territories live.

E-invoice exemption declaration functionality made live

The e-invoice exemption declaration functionality has been made live on the e-invoice portal. This functionality is voluntary and applicable to taxpayers who are exempted from e-invoicing provisions under GST laws but by default are enabled for e-invoicing on the portal. It may be noted that any declaration made using this functionality will not change the e-invoice enablement status of the taxpayer.

32 Harmonized System of Nomenclature

33 Certificate of Origin

34 Bill of Entry

35 Feature which converts an address or description of a location into geographic coordinates

Tax Practice

JSA offers a broad range of tax services, both direct and indirect, in which it combines insight and innovation with industry knowledge to help businesses remain compliant as well as competitive. The Tax practice offers the entire range of services to multinationals, domestic corporations, and individuals in designing, implementing and defending their overall tax strategy. Indirect Tax services include services such as (a) advisory services under the Goods and Services Tax laws and other indirect taxes laws (VAT/ CST/ Excise duty etc.), and includes review of the business model and supply chain, providing tax implications on various transactions, determination of tax benefits/exemptions, analysis of applicability of schemes under the Foreign Trade Policy (b) transaction support such as tax diligence (c) assistance in tax proceedings and investigations and (d) litigation and representation support before the concerned authorities, the Appellate Tribunals, various High Courts and Supreme Court of India. The team has the experience in handling multitude of assignments in the manufacturing, pharma, FMCG, e-commerce, banking, construction & engineering, and various other sectors and have dealt with issues pertaining to valuation, GST implementation, technology, processes and related functions, litigation, GST, DRI investigations etc. for large corporates. Direct Tax services include (a) structuring of foreign investment in India, grant of stock options to employees, structuring of domestic and cross-border transactions, advising on off-shore structures for India focused funds and advise on contentious tax issues under domestic tax laws such as succession planning for individuals and family settlements, (b) review of transfer pricing issues in intra-group services and various agreements, risk assessment and mitigation of exposure in existing structures and compliances and review of Advance Pricing Agreements and (c) litigation and representation support before the concerned authorities and before the Income Tax Appellate Tribunal, various High Courts and Supreme Court of India.

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17 Practices and
24 Ranked Lawyers

16 Practices and
11 Ranked Lawyers

7 Practices and
2 Ranked Lawyers

11 Practices and
39 Ranked Partners
IFLR1000 APAC Rankings 2022

Banking & Finance Team of the Year

Fintech Team of the Year

Restructuring & Insolvency Team of the Year

Among Top 7 Best Overall Law Firms in India and
9 Ranked Practices

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11 winning Deals in
IBLJ Deals of the Year

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10 A List Lawyers in
IBLJ Top 100 Lawyer List

Banking & Financial Services Law Firm of the Year 2022

Dispute Resolution Law Firm of the Year 2022

Equity Market Deal of the Year (Premium) 2022

Energy Law Firm of the Year 2021

Ranked #1
The Vahura Best Law Firms to Work Report, 2022

Top 10 Best Law Firms for Women in 2022

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