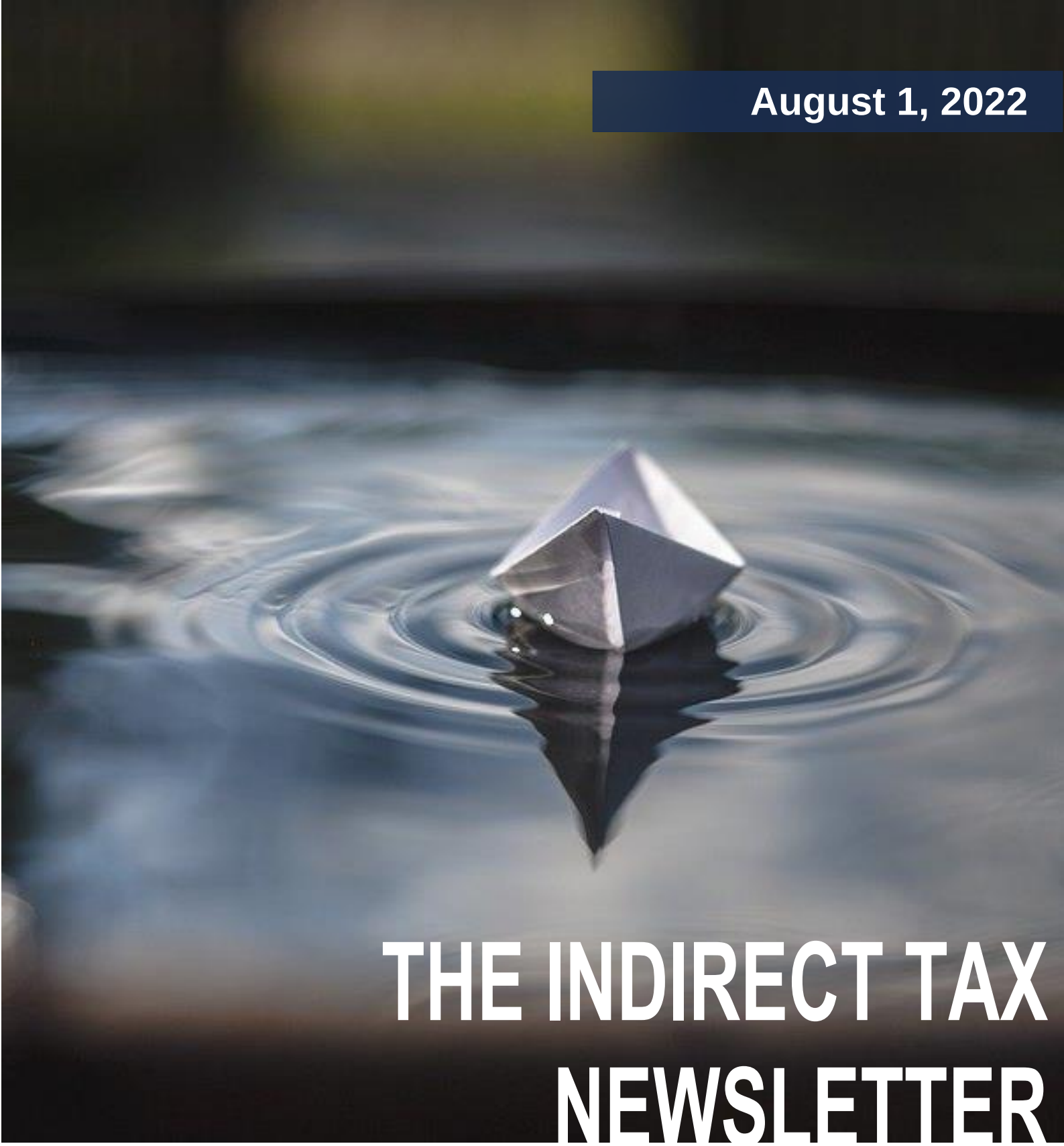
August 1, 2022



THE INDIRECT TAX NEWSLETTER

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Recent Case Laws

Goods and Services Tax (GST)

1. *The Hon'ble Supreme Court directs opening of GST portal from September 1, 2022 to October 31, 2022 to enable taxpayers to claim transitional credit.*

Union of India v. *Filco Trade Centre Private Limited* [Petition for Special Leave to Appeal (C) No(s). 32709/2018 (Hon'ble Supreme Court), decided on July 22, 2022].

Judgment:

Considering the fact that various High Courts had allowed Writ Petitions filed by the registered assessees seeking a direction to avail TRAN-1 and TRAN-2 credit beyond the statutory limit of December 27, 2017, the Hon'ble Apex Court has directed the following:

(a) GSTN to open its portal for the taxpayers from September 1, 2022 to October 31, 2022 to file FORM GST TRAN-1 and TRAN-2 for claiming transitional credit.

(b) Any aggrieved registered assessee can file the relevant form or revise the already filed form, irrespective of whether the taxpayer has filed Writ Petition before the High Court or not.

(c) GSTN has to ensure that there are no technical glitch during the said time.

(d) The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties.

(e) Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.

(f) If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims.

2. *Section 7 of the Central Goods and Services Tax Act, 2017 ("CGST Act") dealing with the scope of supply includes "sale", and is not ultra vires the Constitution.*

Messers Kay Pan Fragrances (Private) Limited v. *Union of India* [Writ Tax No. 760 of 2022 (Hon'ble Allahabad High Court), decided on May 23, 2022].

Facts of the case:

The Petitioner challenged the constitutionality of Section 7 of the CGST Act read with Schedule II thereto on the ground that *inter-alia* the term "supply" does not include "sale". The aforesaid challenge stems from the contention that Article 246A of the Constitution does not confer power to impose tax on sale of goods and hence, Section 7 lacks legislative competence to tax sale of goods.

Judgment:

(a) The Hon'ble High Court held that since the power conferred under Article 246A is to legislate on the subject "with respect to goods and services tax", therefore, the

Parliament is fully competent to enact the CGST Act and the State Legislature is fully competent to enact State GST Act with respect to goods and services tax which includes taxes on supply of goods or services or both.

(b) Further, an overall reading of the Statement of Objects and Reasons to the Constitution (101st Amendment) Act, 2016 leaves no manner of doubt that Article 246A and other relevant provisions were enacted to bring the taxes on purchase and sale of goods, duties on excise and entertainment tax etc. under one umbrella by empowering the Parliament and the State Legislature to enact laws with respect to taxes on supply of goods and services. This rationale has also been considered by Hon'ble Supreme Court in *Union of India* v. *Mohit Mineral Private Ltd.,* (2019) 2 SCC 599.

(c) Thus, the 'scope of supply' as provided in Section 7 of the CGST Act, is well within the legislative power of the Parliament conferred under Article 246A of the Constitution of India. Hence, the said provision, which includes sale, is not ultravires the Constitution.

3. *Supplier supplying goods at concessional rate to companies involved in specified projects is entitled to refund under the inverted tax structure.*

Baker Hughes Asia Pacific Limited v. *Union of India* [D.B. Civil Writ Petition No. 5714/2021 (Hon'ble Rajasthan High Court), decided on June 30, 2022].

Facts of the case:

(a) The Petitioner entered into a development contract with Vedanta Ltd. In terms of the contract, it procured goods from its vendors at GST rates varying between 5% to 28% and supplied the same to Vedanta at the GST rate of 5% in terms of Notification No.3/2017- CGST dated June 28, 2017, applicable on supplies made to specified persons for specified operations. Thereafter, the Petitioner claimed refund of the input tax credit accumulated due to the inverted tax structure in terms of Section 54(3)(ii) of the CGST Act.

(b) The departmental authorities denied the refund relying on the Circular No. 135/2020-GST dated March 31, 2020 which provides that the tax-payers cannot claim refund under Section 54(3)(ii) of the CGST Act in case the input and output supplies remain the same. Aggrieved by the denial of such refund by the Respondents, the Petitioner filed a petition before the Hon'ble High Court.

Judgment:

(a) The Hon'ble High Court observed that Section 54(3)(ii) of the CGST Act is absolutely unambiguous and does not carve out any exception that Input Tax Credit under the Inverted Tax Structure would not be applicable where the input and the output goods are the same.

(b) It was also observed that the afore-mentioned Circular was challenged before Hon'ble Guwahati High Court in the case of *B.M.G. Informatics Pvt. Ltd.* v *Union of India* [WP(C)/3878/2021, Order dated September 2, 2021. Vide the said judgment, it was held that the supplying dealer would be entitled to claim refund of accumulated unutilised tax credit under Section 54(3)(ii) of the CGST Act irrespective of the fact that input and output supplies remains the same.

(c) In view of the aforesaid, the Order rejecting the refund was set aside and the Petition was allowed.

4. *Domestic supplies of goods subject to nil rate of Compensation cess will be considered as exempt supplies for the purpose of calculation of adjusted total turnover in terms of Rule 89(4) of the Central Goods and Services Tax Rules, 2017 ("CGST Rules") and refund to such extent will be admissible.*

Electrosteel Castings Limited v. *The Assistant Commissioner, CGST & CX, Khardah Division Kolkata North Commissionerate* [WPA No. 12676 of 2021 (Hon'ble Calcutta High Court), decided on July 10, 2022].

Facts of the case:

(a) The Petitioner exports ductile iron spun pipes and fittings manufactured using coal, which is subject to Compensation Cess. It reversed input tax credit of the cess on account of domestic supply of finished goods not subject to Cess and Non-GST turnover by treating the same as exempt supplies in terms of Section 11 of the GST (Compensation to States) Act, 2017 ("Cess Act") read with Section 17(2) and 2(47) of the CGST Act. Thereafter, it claimed refund of unutilized input tax credit of compensation cess paid on coal under Section 54 of the CGST Act read with Rule 89 (4) of the CGST Rules.

(b) In order to arrive at the amount of refund claim, the Petitioner applied the formula for refund of input tax credit in case of zero-rated supply of goods or services without payment of tax, as contained in Rule 89(4) of the CGST Rules. In terms of the said rule, the value of exempt supplies other than zero rated supplies shall be excluded while calculating adjusted total turnover. Accordingly, in computing the refund amount, the Petitioner excluded supply of finished goods not subject to Cess and Non-GST turnover during the relevant period, while arriving at the adjusted total turnover.

(c) However, the departmental authorities computed the refund by adding the supply of finished goods not subject to Cess in the adjusted total turnover and consequently denied the refund attributable to the Petitioner to such extent. Aggrieved by the denial of such refund by the Respondents, the Petitioner filed a petition before the Hon'ble High Court.

Judgment:

(a) The Hon'ble High Court observed that Cess is akin to the components of GST, which is a constitutionally approved amalgamation of taxes which existed prior to the commencement of the GST regime. Further, having regard to the conscious use of the expression "mutatis mutandis" in Section 11 of the Cess Act, all the provisions of CGST and Integrated Goods and Services Tax Act, 2017 (**"IGST Act"**) would be squarely applicable to the levy, collection, and refund of the Cess Act. The words tax and cess for the purpose of the Act would have to be used interchangeably.

(b) The term "exempt supply" has been defined under the CGST Act as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under Section 11, or under Section 6 of the IGST Act and includes non-taxable supply. Thus, finished goods supplied by the Petitioner domestically which attract nil rate of Cess should also be construed as exempt supplies as defined under the CGST Act. Correspondingly, the value of such goods should be excluded from adjusted total

turnover for the purpose of computation of refund of input tax credit of Cess in terms of Rule 89 (4) of the CGST Rules.

(c) In view of the aforesaid findings, the Order rejecting the refund was set aside and the Petition was allowed.

Service Tax

5. *Refund of unutilized credit of Education Cess, Secondary & Higher Education Cess and Krishi Kalyan Cess to be allowed even after introduction of GST.*

Messers International Seaport Dredging Private Limited v. *Commissioner of GST & Central Excise, Chennai* [Service Tax Appeal No. 40436 of 2021 (Hon'ble CESTAT, Chennai), decided on June 17, 2022]

Facts of the case:

The Appellant, engaged in providing dredging services filed a refund claim under Section 11B of the Central Excise Act, 1944 for refund of unutilized CENVAT credit availed on Education cess, Secondary and Higher Education cess and Krishi Kalyan cess. The departmental authorities rejected the refund claim by holding that under Section 140 of CGST Act, refund can be sought only for eligible duties and that duties excludes cess. Aggrieved by such action of the authorities, an appeal was filed before the CESTAT.

Judgment:

(a) In the case of Emami Cement Ltd. v. Commissioner of GST & Central Excise, Raipur - 2022-TIOL-280-CESTAT-DEL and Schlumberger Asia Services Ltd. v. CCE, Gurgaon - 2021-TIOl-313-CESTAT-CHD involving similar facts, it was held that the credits earned under the erstwhile regime were a vested right and such right will not extinguish with introduction of the GST Law, unless there was a specific provision which would debar such refund. Since there is no such restrictive provision in newly enacted GST law, merely by change of legislation, the assessee could not be put in a position to lose this valuable right.

(b) Relying on the aforesaid judgments, the Hon'ble CESTAT held that the Education cess, Secondary and Higher Education cess and Krishi Kalyan cess lying unutilized in CENVAT account is eligible for refund after introduction of GST. Therefore, the Order was set aside and appeal was allowed by the Hon'ble CESTAT.

Customs

6. *When a refund application is made within the prescribed time-limit before a wrong forum and subsequently filed before the correct authority/forum, the original date of filing of the claim has to be taken for computing the time-limit of one year.*

Messers HCL Infosystems Limited v. *Commissioner of Customs, Chennai* [Final Order No. 40264 of 2022] (Hon'ble CESTAT, Chennai), decided on June 24, 2022].

Facts of the case:

The Appellant filed the refund claim within the prescribed time limit of one year from the date of payment of duty, however, before a wrong forum. On realising its mistake, the Appellant prayed for transfer of its file to the correct forum, which after continuous reminders was done after a period of more than four years. The departmental authorities rejected the refund claim on the ground of limitation without issuance of a Show Cause Notice by observing that the application was filed beyond the time-limit of one year from the date of payment of duty. Consequently, aggrieved by such action of the authorities, the proceedings culminated into an appeal before the CESTAT.

Judgment:

(a) The Hon'ble CESTAT observed that the Appellant had filed the refund claim within the prescribed time limit of one year from the date of payment of duty, however, before a wrong forum. It is a settled principle of law that when a refund claim is filed before a wrong forum, within the statutory time-limit, the date on which the claim was originally filed has to be taken as the date of filing of the refund claim.

(b) In view of the aforesaid, the Hon'ble CESTAT held that the rejection of refund on the ground of limitation cannot be justified. Accordingly, the impugned order rejecting the refund claim was remanded back to process the refund claim on merits.

Central Excise, Sales Tax, VAT

7. *Tax collected at source ("TCS")cannot be considered as "additional consideration" flowing from the buyer to the seller and therefore cannot be included in the assessable value for the purpose of charging Excise Duty.*

Yashraj Containeurs Limited v. *Commissioner of Central Excise, Daman* [Order No. A/10664/2022 (Hon'ble CESTAT Ahmedabad), decided on June 7, 2022].

Facts of the case:

The Appellant collected TCS from its buyer in connection with the sale of scrap and deposited the same to the Government exchequer in terms of Section 206C of the Income Tax Act, 1961. The department contended that the TCS collected from the buyer over and above the price of the goods should be included in the transaction value as the same shall be treated as amount of money value of additional consideration on which Central Excise duty is required to be paid. The lower authority confirmed the demand and being aggrieved by the same, the Appellant filed an appeal before the CESTAT.

Judgment:

(a) The Hon'ble CESTAT observed that in terms of Section 206C, the amount collected as TCS has nothing to do with the price of the goods but it is a tax collected from the buyer of the scrap and the same is deposited with the Government exchequer. Therefore, the amount collected as TCS is a tax and the same is not includable in the assessable value in terms of Section 4 of the Central Excise Act, 1944.

(b) Further, the TCS is collected by the Appellant not as an additional consideration but explicitly as tax and same is deposited to the Government exchequer, therefore, it cannot be said that the amount of TCS belongs to the Appellant.

(c) In view of the aforesaid, the CESTAT held that the amount of TCS cannot be considered as additional consideration flowing from the buyer to the Appellant. Accordingly, the same is not includable in the assessable value for charging Excise Duty. The appeal was therefore allowed and the order was set aside.

Recent Notifications and Circulars

No.	Reference	Particulars
1.	Notification No. 09/2022-Central Tax dated July 5, 2022	Seeks to appoint July 5, 2022 as the date on which the provisions of Section 110(c) and Section 111 of the Finance Act, 2022 shall come into force. The said Sections provide that the electronic cash ledger balance of a registered person could be transferred to the electronic cash ledger of CGST and IGST of a distinct person, and that interest would be payable under Section 50(3) of the CGST Act when wrongly availed Input tax credit has been utilized, respectively.
2.	Notification No. 10/2022-Central Tax dated July 5, 2022	Seeks to exempts the registered person whose aggregate turnover in the financial year 2021-22 is up to Rs. 2 Crores, from filing annual return for the said financial year.
3.	Notification No. 11/2022-Central Tax dated July 5, 2022	Seeks to extend the due date of furnishing FORM GST CMP-08 for the quarter ending June, 2022 till July 31, 2022.
4.	Notification No. 12/2022-Central Tax dated July 5, 2022	Seeks to extend the waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22 from the May 1, 2022 till July 28, 2022.
5.	Notification No. 13/2022-Central Tax dated July 5, 2022	Seeks to provide the following: - Extend the time limit to issue order under Section 73(9) of the CGST Act for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, upto September 30, 2023. - Exclude the period from March 1, 2020 to February 28, 2022 for: a. Computation of period of limitation under Section 73(10) of the CGST Act for issuance of order under Section 73(9) for recovery of erroneous refund, and b. Computation of period of limitation for filing refund application under Section 54/55 of the CGST Act.
6.	Notification No. 14/2022-Central	Seeks to amend the CGST Rules as follows:

	Tax dated July 5, 2022	- Insertion of another proviso in Rule 21A(4) to provide for deemed revocation of suspension of registration where suspension of the registration was done by the system under Rule 21A(2A) for non-compliance in terms of clause (b) or clause (c) of Section 29(2) [continuous non-filing of specified number of returns], once all the pending returns are filed on the portal by the taxpayer. - Insertion of clause (d) in Explanation 1 to Rule 43 to provide that there is no requirement of reversal of input tax credit under Rule 42 as well as Rule 43 in case of exempted supply of Duty credit scrips by exporters. - Insertion of clause (s) in Rule 46 to provide for a specified declaration that invoice is not required to be issued in the manner specified under Rule 48(4), in all cases where an invoice is issued, other than in the manner so specified therein by the taxpayer having aggregate turnover exceeding Rs. 20 Crores in any preceding financial year from 2017-18 onwards. - Insertion of sub-rule 4B in Rule 86 to provide that where the amount of erroneous refund sanctioned under Section 54(3) or Rule 96(3)(b), in contravention of sub-rule (10) of rule 96, has been deposited along with interest and penalty through FORM GST DRC-03 by debiting the electronic cash ledger, either on his own or on being pointed out, such amount of erroneous refund shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03A. - Amendment of Rule 87 to provide UPI and IMPS as a mode of GST Payment, and to provide for transfer of amount in electronic cash ledger of one distinct person to another in Form GST PMT-09. - Insertion of Rule 88B w.e.f. July 1, 2017 to provide that : a. In case of delayed filing of return under Section 39 (except where proceedings have commenced under Section 73/74), interest on tax payable shall be calculated on the portion paid by debiting the electronic cash ledger. b. In other cases where interest is payable under Section 50(1), interest shall be calculated at the notified rate from the date when the tax was due till the date such tax is paid. c. In case where interest is payable under Section 50(3) on the input tax credit wrongly availed and utilized, such interest shall be calculated from the date of utilization till the date of reversal of credit or payment of tax at the rate notified.

		For the purposes of this sub-rule, an explanation has been added to provide that - 1. input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed. 2. the date of utilisation of such input tax credit shall be taken to be, - a. the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or b. the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases. - Rule 89 has been amended to provide that: a. In respect of refunds pertaining to supplies to Special Economic Zone ("SEZ") Developer/Unit, an Explanation has been inserted in sub-rule (1) to clarify that "specified officer" under the said sub-rule shall mean the "specified officer" or "authorized officer", as defined under SEZ Rules, 2006. b. Specific statement in FORM GST RFD-01 for details of electricity, tariff per unit etc. in case of refund on account of electricity exported. c. In case of refund of Input tax credit in case of zero-rated supply of goods or services or both without payment of tax under bond or LUT, the value of goods exported out of India shall be taken as - (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or (ii) the value declared in tax invoice or bill of supply, **whichever is less.**

		d. The formula for refund on account of inverted duty structure shall be – **Maximum Refund Amount =** {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - {tax payable on such inverted rated supply of goods and services x (Net ITC÷ ITC availed on inputs and input services)} - Rule 95A, which deals with refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist shall be deemed to have been omitted with effect from July 1, 2019. - Rule 96 has been amended to provide *inter-alia* that : a. If there is any mismatch between the data furnished by the exporter of goods in Shipping Bill and those furnished in statement of outward supplies in FORM GSTR-1, such application for refund of integrated tax paid on the goods exported out of India shall be deemed to have been filed on such date when such mismatch in respect of the said shipping bill is rectified by the exporter. b. In some cases where the exporter is identified as risky exporter requiring verification by GST officers, or where there is a violation of provisions of Customs Act, the refund claims in respect of export of goods are suspended/withheld. In such cases, a specified mechanism to expedite the refund of such exporters has been deemed to have been inserted therein. - Certain changes in Form GSTR-3B, GSTR-9, GSTR 9C and GST PMT-03, GST PMT-06, GST PMT-07, GST PMT-09, GST RFD-01 and GST RFD-10B have been carried out.
7.	Notification No. 08/2022- Central Tax dated June 7, 2022	Seeks to provide waiver of interest for specified electronic commerce operators for specified tax periods
8.	Notification No. 3/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to amend the Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017, which deals with GST rate on supply of services. The amendment shall be applicable w.e.f. July 18, 2022.
9.	Notification No. 4/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to amend the Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, which deals with exemption from GST to specified services. The amendment shall be applicable w.e.f. July 18, 2022.

10.	Notification No. 5/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to amend the Notification No. 13/2017-Central Tax (Rate) dated June 28, 2017, which deals with services liable to GST under reverse charge. Amongst others, an option has been provided to Goods Transport Agency ('GTA') to pay GST at 5% (without ITC) or 12% under forward charge (with ITC) to be exercised at the beginning of Financial Year and earlier reverse charge mechanism option to continue. It also seeks to tax services of renting of residential dwelling to business entities under reverse charge. The amendment shall be applicable w.e.f. July 18, 2022.
11.	Notification No. 6/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to make certain amendments to the rate notification as applicable to goods. The amendment shall be applicable w.e.f. July 18, 2022.
12.	Notification No. 7/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to amend Notification No. 2/2017-Central Tax (Rate) dated June 28, 2017, i.e., the Goods exemption notification. The amendment shall be applicable w.e.f. July 18, 2022.
13.	Notification No. 8/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to amend Notification No. 3/2017-Central Tax (Rate), dated June 28, 2017 so as to notify rationalized rate from 5% to 12% for goods supplied for petroleum/coal bed methane operations. The amendment shall be applicable w.e.f. July 18, 2022.
14.	Notification No. 9/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to amend Notification No. 5/2017-Central Tax (Rate), dated June 28, 2017 as to insert the goods such as soya bean oil, ground nut oil, olive oil, coconut, coal etc. on which no refund of accumulated unutilised ITC shall be allowed under Section 54(3) of the CGST Act. The amendment shall be applicable w.e.f. July 18, 2022.
15.	Notification No. 10/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to provide same concessional rate on all fly ash bricks, irrespective of fly ash content and to omit the condition of 90% or more fly ash content. The amendment shall be applicable w.e.f. July 18, 2022.
16.	Notification No. 11/2022 – Central Tax (Rate) dated July 13, 2022	Seeks to rescind Notification No. 45/2017-Central Tax (Rate) dated November 14, 2017 to change the concessional GST rate of 5% on scientific and technical equipment to rate applicable on such scientific and technical equipment. The amendment shall be applicable w.e.f. July 18, 2022.
17.	Circular No. 170/02/2022-GST dated July 6, 2022	Seeks to issue clarification with respect to mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1.

18.	Circular No. 171/02/2022-GST dated July 6, 2022	Seeks to clarify on various issues relating to applicability of demand and penalty provisions under the CGST Act in respect of transactions involving fake invoices.
19.	Circular No. 172/04/2022-GST dated July 6, 2022	Seeks to issue clarification on certain issues with respect to – i. refund claimed by the recipients of supplies regarded as deemed export ii. interpretation of section 17(5) of the CGST Act iii. perquisites provided by employer to the employees as per contractual agreement; and iv. utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities.
20.	Circular No. 173/05/2022-GST dated July 6, 2022	Seeks to clarify the issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification.
21.	Circular No. 174/06/2022-GST dated July 6, 2022	Seeks to prescribe manner of re-credit in electronic credit ledger using FORM GST PMT-03A.
22.	Circular No. 175/07/2022-GST dated July 6, 2022	Seeks to provide manner of filing refund of unutilized ITC on account of export of electricity.
23.	Circular No. 176/08/2022-GST dated July 6, 2022	Seeks to withdraw Circular No. 106/25/2019-GST dated June 29, 2019 wherein certain clarifications were given in relation to rule 95A inserted in the CGST Rules w.e.f. July 1, 2019.
24.	FAQ bearing F. No. 190354/172/2022 dated July 17, 2022	Seeks to clarify various issues on GST applicability on 'pre-packaged and labelled' goods.
25.	Instruction No. 03/2022- Central Tax dated June 14, 2022	Seeks to provide the following instructions/guidelines for sanction, post-audit, and review of refunds: <u>Sanction of refund</u> While passing the refund sanction order in FORM GST RFD-06, the proper officer should upload a detailed speaking order along with refund sanction order in FORM GST RFD-06. In order to ensure uniformity in issuance of such speaking order, it is clarified

		that such speaking order should inter alia contain the details as specified in the said Instruction. <u>Post Audit & Review</u> It has been clarified that all refund orders are required to be reviewed for examination of legality and propriety of the refund order and for taking a view whether an appeal to the appellate authority under provisions of sub-section (2) of section 107 of the CGST Act is required to be filed against the said refund order. Further, as already mentioned in Circular No. 17/17/2017-GST dated November 15, 2017, refund claims shall not be subjected to pre-audit. However, the post-audit of refund claims may continue only for refund claims amounting to Rs. 1 Lakh or more till further instructions. The guidelines for conducting the post audit and review of the refund claims has been specified in the Instructions.
26.	Notification No. 37/2022-Customs dated June 30, 2022	Seeks to continue the exemption from Integrated Tax and Compensation Cess on goods imported under AA/EPCG/EOU Schemes.
27.	Instruction No. 13/2022-Customs dated July 9, 2022	Seeks to clarify that in case of warehousing of solar power generating units or items like solar panel, solar cell etc. for power plants with resulting goods 'electricity', Manufacture and Other Operations in Warehouse (no.2) Regulations, 2019 under section 65 of the Customs Act, 1962 are not applicable.
28.	Policy Circular No. 39/2015-20, dated June 7, 2022	Seeks to relax the provision of submission of 'Bill of Export' as an evidence of export obligation discharge for supplies made to SEZ units in case of Advance Authorisation.

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