



THE **GST** INSIDER

MARCH 25 EDITION
(01st Mar to 15th Mar)

CA. SAMARPIT SHARMA

»»» PREFACE «««

Welcome to our latest issue of "**The GST Insider**" meticulously compiled by **CA Samarpit Sharma**. As we navigate through the ever-evolving landscape of the Goods and Services Tax (GST), our aim is to bring you the most recent and pertinent updates, including circulars, notifications, press releases, relevant case laws, advance rulings, and other essential documents.

This Newsletter is designed to serve as a comprehensive resource for enhancing your understanding of GST regulations. Each edition is carefully structured to present complex legal content in an accessible and engaging format. Through the use of explanatory visuals and simplified explanations, we strive to make the material not only easier to comprehend but also more interesting to read.

It is important to note that the information provided herein is intended solely for knowledge sharing purposes and should not be utilized as a basis for any form of professional advice. For specific GST-related advice, we recommend consulting with qualified experts.

By integrating visual aids and reformulating the legal text into reader-friendly formats, we hope to enrich your learning experience and keep you updated on significant GST developments. Enjoy the read, and may it spark both your interest and understanding of GST.

Thank you for trusting "The GST Insider" as your go-to source for GST updates. We hope you find this edition both informative and easy to comprehend.

Thank You!



CA. SAMARPIT
SHARMA

AUTHOR

“

*Push past your
comfort zone*

”

>>> NEWSLETTER <<<

THE GST INSIDER



TOP UPDATES & CASE LAWS OF THE MONTH

ACTIONS REQUIRED BEFORE MARCH 31, 2025 & CHANGES TAKING EFFECT FROM APRIL 1, 2025

>>> READ MORE

Key actions must be completed before March 31, 2025, including ITC reversals, LUT filing, and tax payments. From April 1, 2025, new rules take effect, such as mandatory ISD registration, 30-day e-invoice reporting, and GST return filing restrictions.

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READ MORE



The Gauhati High Court held that a GST show cause notice under Sections 73 & 75(4) is invalid if it lacks justification or denies the taxpayer a fair hearing. The court emphasized the need for a reasoned order and the right to a personal hearing for procedural fairness.

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GST SHOW CAUSE NOTICE INVALID: LACK OF JUSTIFICATION AND HEARING DENIAL UNDER SECTIONS 73 & 75(4).

- GAUHATI HIGH COURT

20 MARCH

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	GSTR 7 (FEB 2025) GSTR 8 (FEB 2025)	GSTR 1 (FEB 2025)	12	GSTR 1/IFF (FEB 2025) GSTR 5 & 6 (FEB 2025)	14	15
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HIGHLIGHTS

»» Updates & Case Laws

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ACTIONS REQUIRED BEFORE MARCH 31, 2025 & CHANGES TAKING EFFECT FROM APRIL 1, 2025

By the end of the financial year 2024-25, the company must conduct these reconciliations to ensure alignment between its accounts and GST filings.

Sr. No	Reconciliation Type	Purpose
1	GSTR-3B vs. Books of Accounts	Ensures accuracy of records and identifies discrepancies.
2	GSTR-2B vs. GSTR-3B	Legal mandate for monthly ITC matching.
3	E-Way Bill vs. GSTR-1 (Sales)	Detects unauthorized movement of goods.
4	E-Way Bill vs. Books (Purchase)	Validates proof of delivery and prevents ITC disputes.
5	E-Invoice Reconciliation (Sales)	Mandatory for businesses with turnover > ₹15 crore.
6	GSTR-1 vs. Sales Register	Verifies sales data accuracy and identifies discrepancies.
7	Books vs. Electronic Cash Ledger	Ensures cash ledger balance matches book records.
8	Books vs. Electronic Credit Ledger	Ensures credit ledger balance aligns with book records.

By the end of the financial year 2024-25, businesses must review and implement the following ITC action points to ensure accurate availment and compliance with GST provisions.

(A) Outward Supply

1. GSTR-1 and GSTR-3B

Impact of Amendments

- Ensure that all amendments, **including Debit Notes and Credit Notes**, made in GSTR-1 are accurately reported in GSTR-3B.

Impact of Credit Notes

- Verify that carry-forward credit notes have been properly adjusted against sales in GSTR-3B.
- Any unadjusted credit notes must be reconciled and reported before the filing of the Annual Return or by 30th November 2025, whichever is earlier, to ensure compliance.



ACTIONS REQUIRED BEFORE MARCH 31, 2025 & CHANGES TAKING EFFECT FROM APRIL 1, 2025

2. Reconciliation of GSTR-1 / GSTR-3B with Books of Accounts

- **Turnover Reconciliation:** Ensure that taxable, exempt, and non-GST supplies recorded in books match with GSTR-1 and GSTR-3B. **Any discrepancies should be adjusted in the March 2025 GST return.**
- **Advance Payments:** Identify unadjusted advances in **Table 11B of GSTR-1** and ensure they are correctly accounted for in books or GST returns.
- **Tax Payment Reconciliation:** Cross-check taxes paid in books against Electronic Cash Ledger balances.
- **Debit/Credit Notes Reconciliation:** Ensure proper reporting of debit and credit notes in books and GSTR-1/GSTR-3B.

3. GSTR-1 and E-Way Bill

- **Invoice Matching:** Reconcile E-Way Bill data with outward supplies to ensure that all invoices are correctly reported.
- **Compliance with E-Way Bill Generation:** Identify invoices where E-Way Bills were not generated and document reasons to prevent penalties and ensure compliance.

4. Additional Compliance Requirements

- **Deemed Supplies (Schedule I):** Validate reporting and tax payment of deemed supplies through GSTR-3B.
- **E-Invoicing Compliance:** Ensure that **all B2B invoices, export invoices, credit notes, and debit notes have corresponding E-Invoices, where applicable.**
- **Goods Sent on Approval/Job Work:** Review the timelines for goods sent under job work or approval basis—if not received within the prescribed time, treat them as deemed supplies and pay GST.
- **Taxation on Other Income:** Verify that GST is paid on additional sources of revenue, such as **scrap sales, asset disposals, or any incidental income.**
- **Financial Credit Notes:** Assess whether financial credit notes received have any tax implications.

5. Table 14 of GSTR-1

- Ensure supplies made via E-commerce operators (e.g., Amazon, Flipkart) are **reported in Table 14 of GSTR-1.**

6. Documentation & Reporting in GSTR-1

(a) Key Adjustments & Corrections

- **Missed E-invoices** should be generated and included in March filings. Duplicates should be removed manually to avoid double reporting in outward supplies.



ACTIONS REQUIRED BEFORE MARCH 31, 2025 & CHANGES TAKING EFFECT FROM APRIL 1, 2025

- As per GSTN advisory dated 5th November 2024, e-invoices must be generated within 30 days from the invoice date for entities with AATO exceeding ₹10 Crores (applicable from 1st April 2025).

(b) HSN Reporting & Reconciliation

- Ensure proper **HSN-wise reconciliation** in GSTR-1 and make necessary adjustments by March 2025.
- Validate whether **credit notes impact HSN reporting** and make required corrections.

(B) Input Tax Credit (ITC)

1. ITC Reconciliation (GSTR-3B vs Books)

- **Invoice-Wise Reconciliation:** Ensure ITC as per books matches with ITC claimed in GSTR-3B. Any discrepancies should be recorded as unreconciled ITC.
- **Reversal & Reclaim:** Match opening balances of ITC reversal and reclaim as per GST Portal with books.
- **Supplier Follow-Ups:** Contact suppliers whose invoices are missing in GSTR-2A/2B, ensuring they report transactions correctly.
- **Ineligible ITC:** Validate ITC reported in Table 4B1 of GSTR-3B against ineligible ITC appearing in GSTR-2B.
- **Tax Offset Accounting:** Verify whether GST liability offsets are properly recorded in books for reconciliation with portal balances.
- **Creditors Ageing Analysis:** If a purchase invoice remains unpaid for more than 180 days, ITC must be reversed with interest, in compliance with Section 50(3) and Second Proviso to Section 16(2).
- **ITC Claim Deadline:** Unclaimed ITC for FY 2024-25 must be availed as per Section 16(4) of CGST Act, 2017.
- **ITC Reversal for Common Credit:** Apply Rule 42/43 for ITC reversal if both taxable and exempt supplies exist.
- **Import ITC Reconciliation:** Ensure Bill of Entry (BOE) details are recorded correctly and appear in GSTR-2B; raise queries via ICEGATE for missing entries.
- **ITC Adjustments:** Reverse excess ITC if utilized and claim any missed ITC per GSTR-2B reconciliation.
- **Place of Supply (POS) Provisions:** Report ITC not available due to POS restrictions separately in Table 4D2 of GSTR-3B (adjustments in March 2024).



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ACTIONS REQUIRED BEFORE MARCH 31, 2025 & CHANGES TAKING EFFECT FROM APRIL 1, 2025

➤ **Amnesty Scheme Benefit – Section 128A of the CGST Act**

The Amnesty Scheme under Section 128A of the CGST Act provides a **waiver of interest and penalties** for tax demands raised under **Section 73** for the period **July 1, 2017, to March 31, 2020**, provided the full tax amount is paid within the prescribed timelines. Taxpayers who received notices or orders under Section 73(1) must make the payment by **March 31, 2025**, while those whose tax liability is redetermined following an appellate or court order have six months from the order date to pay. To avail of the waiver, taxpayers must submit **FORM GST SPL-01 or SPL-02** within **three months from March 31, 2025**. However, if the case was initially classified under Section 74 but later reclassified under Section 73, the form must be submitted within **six months**. The waiver is applicable **only if the full tax amount is paid**, and no refunds will be issued for interest or penalties already paid. This scheme aims to reduce litigation and provide relief to taxpayers. (Notification No. 20/2024 – Central Tax).

➤ **Letter of Undertaking (LUT) for FY 2025-26**

Exporters seeking to export goods or services without payment of GST must furnish a Letter of Undertaking (LUT) online for the financial year 2025-26. The facility for filing LUT is available on the GSTN portal under the Services tab.

➤ **Switching from Regular Scheme to Composition Levy**

Taxpayers opting to shift from the **Regular Scheme to the Composition Levy** must file **FORM CMP-02** on the GST Portal by **March 31, 2025**. Additionally, for the reversal of Input Tax Credit (ITC) on inputs, work-in-progress (WIP), finished goods, stock, and capital goods, FORM ITC-03 must be filed by May 30, 2025.

➤ **QRMP Scheme Option for FY 2025-26**

Taxpayers with a turnover of up to ₹5 crores can opt for the Quarterly Return Filing and Monthly Payment (QRMP) Scheme for Q1 of FY 2025-26 until April 30, 2025. Additionally, taxpayers can choose to opt out of the QRMP Scheme for the remaining quarters of the financial year.

➤ **ITC-04 Filing for Goods Sent/Received from Job Workers**

Taxpayers who have sent or received goods from job workers must file FORM ITC-04 based on their Annual Aggregate Turnover (AATO). For taxpayers with AATO above ₹5 crore, ITC-04 must be filed half-yearly, with the April–September return due by October 25, 2024, and the October–March return due by April 25, 2025. Taxpayers with AATO up to ₹5 crore are required to file annually, with the return for FY 2024-25 due by April 25, 2025. Additionally, taxpayers must reconcile goods and capital goods sent to job workers before April 1, 2024, if



ACTIONS REQUIRED BEFORE MARCH 31, 2025 & CHANGES TAKING EFFECT FROM APRIL 1, 2025

they have not yet been received back. If inputs are not returned within 1 year or capital goods within 3 years from the date of dispatch, the applicable output tax liability must be discharged along with interest.

➤ **Reversal of ITC Under Rule 42 & 43**

Under Rule 42 of the CGST Rules, 2017, businesses availing common Input Tax Credit (ITC) for taxable and exempt supplies must recompute and adjust the ITC reversal for each financial year. This adjustment must be done no later than September of the following financial year. If the recomputed reversal amount is higher than the amount already reversed, the excess ITC reversal must be paid along with interest calculated from April 1 of the succeeding financial year until the date of payment.

To avoid interest liability, businesses should proactively compute the required reversal and, if any excess reversal is due, make the payment in the March GSTR-3B return. Timely compliance with this requirement helps prevent unnecessary interest costs and ensures adherence to GST regulations.

➤ **1% Cash Payment Compliance Under Rule 86B**

Taxpayers subject to Rule 86B of the CGST Rules must ensure compliance by paying at least 1% of their output tax liability from their Cash Ledger, unless they qualify for an exemption.

➤ **Declaration Requirement and Tax Rate Options for Hotels**

A hotel supplier operating from specified premises must pay GST at 18% with the benefit of Input Tax Credit (ITC). However, if the premises do not qualify as specified premises, the supplier has the option to either pay 5% GST without ITC or 18% GST with ITC. A registered hotel supplier who does not qualify as a specified premises but chooses to pay 18% GST with ITC on restaurant and other services must submit a declaration to the jurisdictional GST authority by March 31, 2025, treating the premises as a specified premises until the option is withdrawn.

➤ **GST on Residential Dwellings Under RCM**

Persons renting out residential dwellings to registered persons are liable for GST under the Reverse Charge Mechanism (RCM). Under this provision, the tenant (registered recipient) is responsible for paying GST instead of the landlord. It is crucial to ensure that GST has been correctly discharged on such rental services during FY 2024-25. Tenants must verify tax payments, compliance with invoicing requirements, and accurate reporting in GSTR-3B to avoid interest or penalties for delayed compliance.



ACTIONS REQUIRED BEFORE MARCH 31, 2025 & CHANGES TAKING EFFECT FROM APRIL 1, 2025

➤ **New Series for Statutory Documents**

Taxpayers must initiate a new series for their statutory documents, including tax invoices, credit/debit notes, payment vouchers, receipt vouchers, delivery challans, and bills of supply, for the new financial year.

➤ **Mandatory ISD Registration and Expanded Scope for ITC Distribution**

Effective April 1, 2025, obtaining Input Service Distributor (ISD) registration becomes mandatory for entities availing ITC on common services utilized across all their branches in India. Previously, ISD registration was optional, and ITC on Reverse Charge Mechanism (RCM) supplies could not be distributed through ISD.

Under the new provisions, an ISD is now permitted to distribute ITC on RCM supplies to its branches. However, the supplier must issue the invoice to the regular GST registration (non-ISD GSTIN), which will then generate a separate invoice to the ISD GSTIN for the transfer of such credit. This change aims to streamline ITC distribution and ensure uniform compliance across branches. (Notification No. 16/2024 – Central Tax).

➤ **Mandatory E-Invoice Reporting Within 30 Days for Businesses with AATO Exceeding ₹10 Crore**

Effective April 1, 2025, businesses with an Annual Aggregate Turnover (AATO) of ₹10 crore or more must report e-invoices within 30 days from the date of issuance. Previously, this requirement applied only to businesses with an AATO of ₹100 crore or more. The new threshold expands compliance obligations to a larger number of taxpayers, ensuring timely reporting and regulatory adherence. (As per Advisory dated November 5, 2024).

➤ **Restriction on GST Return Filing After Three Years**

Starting early 2025, the GST portal will restrict the filing of GSTR-1, GSTR-3B, GSTR-4, GSTR-5, GSTR-6, GSTR-7, GSTR-8, and GSTR-9 if they are not submitted within three years from their due date. This restriction has been introduced under the Finance Act, 2023 to enhance compliance and ensure timely filing of returns.



Case **LAW**



CA. SAMARPIT SHARMA



NATURAL JUSTICE PLEA REJECTED: COURT GRANTS 30 DAYS FOR STATUTORY APPEAL DESPITE HEARING DISPUTE.

(LGW INDUSTRIES LIMITED VERSUS ASSISTANT COMMISSIONER OF REVENUE, STATE TAX, ITC INVESTIGATION UNIT & ORS. - CALCUTTA HIGH COURT)

This intra-court appeal arises from the dismissal of a writ petition challenging an adjudication order under the GST Act. The appellant contends that the adjudication order was passed without affording an opportunity for a hearing, without permitting the submission of written replies, and without allowing cross-examination of individuals whose statements were relied upon. The learned Single Bench, however, directed the appellant to avail the statutory appellate remedy under Section 107A of the GST Act instead of entertaining the writ petition.

The appellant argues that although no reply was filed to the show-cause notice, a specific request was made for cross-examining certain individuals whose statements formed the basis of the adjudication order. Without granting this request or issuing a separate rejection, the adjudicating authority proceeded to finalize the order and raise a demand. It is further submitted that another officer from the same department—the Assistant Commissioner of State Tax—had granted a refund to the appellant, which reinforces the genuineness of the appellant's transactions. Additionally, the department has not disputed that the appellant has duly paid the taxes demanded.

Upon hearing both sides and examining the records, it is evident that the matter requires an in-depth factual adjudication rather than a simple determination. As such, it does not qualify as an exceptional case warranting a departure

from the statutory appellate process. It is also noted that while the adjudication order was passed on July 19, 2024, the writ petition was filed only in January 2025, beyond the prescribed timeframe for a statutory appeal. Despite this, the learned Single Bench granted liberty to the appellant to file an appeal within a stipulated timeframe, ensuring its consideration on merits. Given these circumstances, there is no basis for interfering with the reasoning of the learned Single Bench. Accordingly, the appeal is dismissed. The appellant is directed to file a statutory appeal within thirty days from the date of receipt of the server copy of this judgment. If filed within this timeframe, the appellate authority shall entertain the appeal without dismissing it on the ground of limitation. The appellant is entitled to raise all factual and legal issues before the appellate authority, which shall consider the matter after granting a personal hearing to the appellant's authorized representative. It is also clarified that the contentions raised in this appeal and the writ petition are not being adjudicated at this stage, and the appellant shall be free to present all arguments before the statutory appellate authority. A further request has been made by the appellant to adjust certain sums recovered from its electronic ledger against the pre-deposit required for filing the statutory appeal. The appellant is at liberty to file an appropriate application in this regard before the appellate authority, which shall examine the request and pass necessary orders.



GST SHOW CAUSE NOTICE INVALID: LACK OF JUSTIFICATION AND HEARING DENIAL UNDER SECTIONS 73 & 75(4).

(ROSIDA SULTANA VERSUS THE STATE OF ASSAM AND 2 ORS, THE PRINCIPAL COMMISSIONER AND THE DEPUTY COMMISSIONER OF STATE TAX, GUWAHATI - GAUHATI HIGH COURT)

In this case, the petitioner was issued a Summary of the Show Cause Notice (SCN) dated December 14, 2023, under GST DRC-01. The summary stated that a Show Cause Notice was attached; however, the petitioner contends that no such SCN was actually provided. Instead, an attachment regarding the determination of tax was included. Due to the absence of a formal SCN, the petitioner did not submit a reply. Subsequently, an Order dated April 28, 2024, was issued under GST DRC-07, stating that since no response was received, the petitioner was deemed to have accepted the notice. The attachments to both GST DRC-01 and GST DRC-07 lacked the signature of the Proper Officer, raising concerns about procedural compliance. The petitioner has challenged this order on the ground that no opportunity for a hearing was provided, violating Section 75(4) of the CGST/AGST Act, 2017.

The petitioner's counsel argues that, under Rule 142 of the Central Goods and Services Tax Rules, 2017, a proper Show Cause Notice must be issued under Section 73, with a summary additionally provided in Form GST DRC-01. It is contended that the attachment to GST DRC-01 cannot be deemed a valid Show Cause Notice, as it does not explicitly require the petitioner to show cause. Furthermore, it lacks authentication, as required by Rule 26 of the Rules of 2017, which mandates digital or e-signatures under the Information Technology Act, 2000. The petitioner relies on several judicial precedents,

including *M/s Silver Oak Villas LLP vs. Assistant Commissioner ST*, where the Telangana High Court ruled that an unsigned order is void under Rule 26(3). Similar views were expressed in *A.V. Bhanoji Row vs. Assistant Commissioner (ST)* by the Andhra Pradesh High Court and *Nkas Services Private Limited vs. State of Jharkhand* by the Jharkhand High Court, which held that a Summary of the SCN (DRC-01) cannot replace a formal SCN.

On the other hand, the learned standing counsel for the Finance and Taxation Department of Assam submits that the Summary of the SCN in Form DRC-01, along with the determination of tax, provided sufficient details for the petitioner to submit a response. However, he concedes that no separate SCN was issued and acknowledges that the attachments to GST DRC-01 and DRC-07 lacked proper signatures, only bearing the notation "Sd- Proper Officer". He contends that when uploaded to the GST portal, these documents are digitally authenticated.

Upon hearing both parties and reviewing the records, this Court finds that the petitioner has raised serious concerns regarding compliance with statutory provisions under the CGST and AGST Acts, 2017, particularly regarding procedural fairness and the principles of natural justice. The core issue is whether the attachment to GST DRC-01 constitutes a valid Show Cause Notice under Section 73 of the CGST Act. A perusal of Section 73 establishes that it applies when tax is unpaid, short-paid,



GST SHOW CAUSE NOTICE INVALID: LACK OF JUSTIFICATION AND HEARING DENIAL UNDER SECTIONS 73 & 75(4).

(ROSIDA SULTANA VERSUS THE STATE OF ASSAM AND 2 ORS, THE PRINCIPAL COMMISSIONER AND THE DEPUTY COMMISSIONER OF STATE TAX, GUWAHATI - GAUHATI HIGH COURT)

erroneously refunded, or when input tax credit (ITC) is wrongly availed or utilized. The Proper Officer is mandated to issue an SCN specifying the reasons for invoking Section 73, allowing the recipient to respond accordingly. Only after considering such representations can the officer determine tax liability under Section 73(9).

Additionally, Rule 142(1)(a) and (b) explicitly require that an SCN issued under Section 73 must be served along with a summary (DRC-01). The issuance of an SCN is a distinct and mandatory requirement, separate from the summary. Judicial precedents, including *Nkas Services Private Limited* and *LC Infra Projects Pvt. Limited*, have consistently held that a Summary of the SCN (DRC-01) cannot substitute a formal SCN, as doing so would violate principles of natural justice.

This Court further observes that Rule 26(3) of the CGST Rules, 2017, requires notices, certificates, and orders to be digitally authenticated. Although Chapter III of the Rules pertains to registration, courts have applied Rule 26(3) to demand and recovery proceedings under Chapter XVIII. The Telangana High Court in *M/s Silver Oak Villas LLP* and the Andhra Pradesh High Court in *A.V. Bhanoji Row* have held that unsigned orders and notices are void and inoperative. The Delhi High Court in *Railsyls Engineers Pvt. Ltd.* also emphasized that SCNs and adjudication orders must be digitally signed.

Examining the Summary of the SCN (DRC-01) issued in this case, this Court

notes that while it required the petitioner to file a reply by a specified date, the section for a personal hearing was left blank. Despite the petitioner explicitly requesting a hearing in Form GST DRC-06, no such opportunity was provided before issuing the order. Under Section 75(4) of the CGST/AGST Act, 2017, a personal hearing is mandatory if requested or if an adverse decision is contemplated. The Chhattisgarh High Court in *Mahindra & Mahindra Limited* held that failure to grant a hearing, despite statutory provisions mandating one, renders the order legally unsustainable.

Given the lack of a proper SCN, the absence of authentication, and denial of a hearing, this Court concludes that the Summary of the SCN (DRC-01) does not constitute a valid initiation of proceedings under Section 73. The impugned adjudication order dated April 28, 2024, is set aside and quashed for violating Section 75(4) and Rule 142(1) (a). However, recognizing that the department may have acted under a misconception of procedural requirements, this Court grants liberty to the respondents to initiate fresh proceedings under Section 73, if deemed necessary.

To ensure fairness, this Court directs that the period between the issuance of the Summary of the SCN (December 14, 2023) and the receipt of this judgment shall be excluded while computing the limitation period for fresh proceedings under Section 73(10) of the CGST/AGST Act.



GST PENALTY PAID UNDER PROTEST CANNOT BE TREATED AS VOLUNTARY, ENSURING RIGHT TO APPEAL.

(KHAITAN FOODS INDIA PVT. LTD. VERSUS STATE OF U.P. - ALLAHABAD HIGH COURT)

This writ petition challenges the rectification order dated October 8, 2024, which modified the penalty order issued under Section 129(3) of the GST Act, 2017, on October 6, 2024, reducing the demand to 'NIL'. The dispute arises from the interception of a vehicle carrying goods on August 29, 2024, by the authorities, who alleged a discrepancy between the declared and actual quantity of goods. The petitioner submitted an explanation on September 29, 2024, stating that the mismatch was inadvertent and requested the release of perishable goods. However, the goods were detained on October 1, 2024, through MOV-06, and a show-cause notice under Section 129(1)(a) was issued.

The petitioner, after failing to obtain a release, deposited the penalty amount through DRC-03 under protest on October 5, 2024. Despite this, the penalty order was passed on October 6, 2024, confirming the demand. The goods were then released on October 8, 2024, via MOV-05, but later, through DRC-08, the authorities treated the penalty payment as voluntary and withdrew the penalty order under Section 161, leaving no outstanding demand.

The petitioner argues that the rectification order is illegal, as the DRC-03 payment was explicitly marked as 'under protest', and its withdrawal now prevents the petitioner from filing an appeal under Section 107 due to the absence of demand on record.

Additionally, it is contended that the conditions for rectification under Section 161 were not met.

The Court finds that rectifying the penalty order to 'NIL' effectively deprives the petitioner of the statutory right to appeal. Since the penalty payment was not voluntary, the rectification order is deemed improper. Accordingly, the writ petition is allowed, and the rectification order dated October 8, 2024, is quashed. To protect the petitioner's right to appeal, the period from October 8, 2024, until this order's date is excluded from the limitation period for filing an appeal against the October 6, 2024, order under Section 129(3).



GST DEPARTMENT MUST ISSUE DETAILED SHOW CAUSE NOTICE UNDER SECTION 73(1); SUMMARY NOTICE INSUFFICIENT.

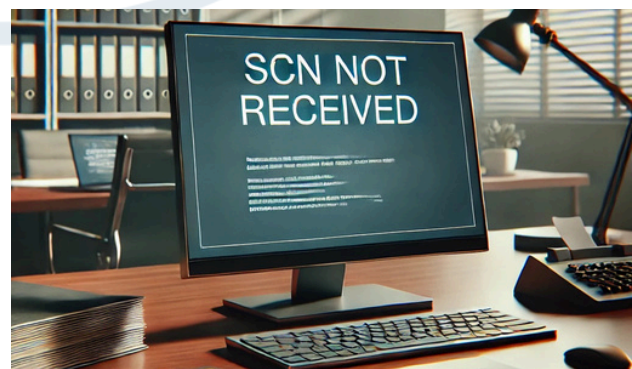
(BITUPAN DOLEY VERSUS THE STATE OF ASSAM, THE PRINCIPAL COMMISSIONER STATE TAX GUWAHATI, THE ASSISTANT COMMISSIONER OF STATE TAX JORHAT- GAUHATI HIGH COURT)

This writ petition challenges the order dated August 25, 2024, issued under Section 73 of the Assam Goods and Services Tax Act, 2017 (AGST Act), on the ground that the petitioner was not served with a proper and prior Show Cause Notice (SCN) before the passing of the order. The petitioner, a registered taxpayer engaged in works contracts under his proprietorship concern, M/s Bitupan Doley, contends that instead of a formal SCN as required under Section 73(1) of the AGST Act, he was only issued a Summary of Show Cause Notice in Form GST DRC-01. The petitioner argues that such a summary notice does not satisfy the statutory requirement and is not a valid substitute for a proper Show Cause Notice under Section 73(1), read with Rule 142(1)(a) of the AGST Rules, 2017.

To support his case, the petitioner has relied on the common judgment and order dated September 26, 2024, passed in W.P.(C) No. 3912/2024 and other connected cases, where a coordinate Bench of the Court examined similar issues. The judgment specifically ruled that a Summary of Show Cause Notice cannot replace a formal SCN, and the determination of tax and order attached to GST DRC-01 and DRC-07 cannot be considered valid orders unless a proper SCN has been served. The judgment further emphasized compliance with Section 75(4) of the AGST Act, which mandates that an opportunity of hearing must be provided before passing any adverse order.

In response, the learned counsel for the respondents has fairly admitted that no separate Show Cause Notice under Section 73(1) was issued to the petitioner. Instead, only a tax determination statement and the Summary of Show Cause Notice in Form GST DRC-01 were provided, which, as per the settled legal position, is insufficient to initiate valid proceedings under Section 73.

Upon examining the matter, the Court finds that the failure to issue a proper Show Cause Notice before passing the impugned order violates the provisions of Section 73 and Rule 142(1) of the AGST Rules. Consequently, the order dated August 25, 2024, is quashed and set aside as it is not legally sustainable. However, recognizing that the department may have acted under an erroneous interpretation of procedural requirements, the Court grants the respondents liberty to initiate fresh proceedings in accordance with the law, ensuring that a proper Show Cause Notice under Section 73(1) is issued and the petitioner is given adequate opportunity to contest the matter before any determination is made.





ITC CLAIMS REJECTED DESPITE SUPPLIER INVOICE PAYMENTS.

(TVL. R.M.K. ENTERPRISES, REPRESENTED BY ITS PROPRIETOR MR. R. MALIK VERSUS THE STATE TAX OFFICER, THE ASSISTANT COMMISSIONER (ST) , CHENNAI -MADRAS HIGH COURT)

The petitioner, a dealer in scrap steel, challenged the assessment orders confirming the GST demand for the assessment years 2017-2018, 2018-2019, and 2019-2020. The dispute arose as the tax authorities denied the Input Tax Credit (ITC) availed by the petitioner, alleging that the transactions were with non-existent suppliers engaged in circular trading. The petitioner, however, maintained that all transactions were legitimate, with payments made via cash and cheques, duly reflected in bank statements. Further, the petitioner argued that the ITC was claimed based on valid tax invoices and GSTR-2A returns, which showed that suppliers had filed their returns during the relevant period. It was contended that the rejection of ITC violated principles of natural justice, as crucial documents such as invoices, e-way bills, and bank statements were disregarded. The petitioner also pointed out that since penalties were imposed on the suppliers under Section 122 of the CGST Act, 2017, it indicated that they were traceable and in existence. Moreover, the petitioner claimed that the reversal of ITC would lead to double taxation, as the tax had already been borne.

On the other hand, the respondents argued that the petitioner had engaged in transactions with fictitious suppliers who merely issued invoices to facilitate ineligible ITC claims. It was highlighted that none of the suppliers had paid GST in cash, which strongly indicated a case of circular trading. The department

further pointed out that the petitioner's entire tax liability was settled through ITC without any actual cash payment, reinforcing the claim of fraudulent transactions. Additionally, the respondents submitted that some of these suppliers had also approached the court, confirming that they were identified as bill traders.



After considering the arguments, the court referred to past judicial precedents, including the Sahyadri Industries Ltd. case, and held that ITC cannot be availed where there is clear evidence of fraudulent transactions. It was observed that the petitioner had discharged the entire tax liability solely through ITC without any cash payment, which raised serious concerns about the legitimacy of the transactions. Concluding that the petitioner had acted as an accessory to pass ineligible ITC, the court dismissed the writ petitions. However, the petitioner was granted the liberty to pursue an appeal before the Appellate Commissioner under the provisions of the CGST Act.



GST EXEMPTION ON PRINTING OF EXAMINATION MATERIALS FOR EDUCATIONAL INSTITUTIONS.

(M/S. GAJANAND FOODS PVT. LTD - AUTHORITY FOR ADVANCE RULING, GUJARAT)

>>> FACTS OF THE CASE

M/s. Mehra Computer Systems Limited (hereinafter referred to as “the Applicant”) is engaged in the business of high-end security printing, specializing in examination-related materials such as question papers, answer booklets, mark sheets, degree certificates, and OMR sheets. The applicant provides end-to-end printing solutions, ensuring confidentiality and security through watermarks, encryption, restricted facility access, and secure distribution.

Before the implementation of GST, the applicant’s activity was classified as manufacturing under Chapter 48/49 of the Central Excise Tariff Act, 1985, and taxed as a sale under the TNVAT Act, 2006. With GST implementation, this activity was reclassified as a supply of services, as the applicant does not own the printed materials but merely executes customized printing based on client specifications.

The applicant filed an Advance Ruling application on January 19, 2024, under Rule 104 of the CGST Rules, 2017, and SGST Rules, 2017, seeking clarification on the GST exemption for services provided to educational institutions.

Questions Raised:

The applicant sought clarity on whether the following services qualify for GST exemption under Sl. No. 66 of Notification No. 12/2017-CGST (Rate), as amended by Notification No. 2/2018-CT (Rate):

- **Printing of pre-examination**

- **materials such as hall tickets, question papers, OMR sheets, and answer booklets for educational institutions.**
- **Printing of post-examination materials such as mark sheets, degree certificates, grade sheets, and rank cards after scanning and processing OMR sheets.**
- **Scanning and processing of examination results provided to educational institutions.**

The applicant argued that these services are directly linked to the conduct of examinations and should be exempt from GST. The applicant further referred to Advance Ruling decisions from various states and CBIC Circular No. 151/07/2021-GST, which confirm the exemption for similar services.

>>> FINDINGS OF THE CASE

The Joint Commissioner, CGST, Chennai South, examined the applicant’s case and made the following key observations:

- Pre-examination materials (hall tickets, question papers, OMR sheets, answer booklets) are essential for conducting examinations and qualify for GST exemption under Sl. No. 66 (b)(iv) of Notification No. 12/2017.
- Post-examination materials (mark sheets, degree certificates, grade sheets) also qualify for GST exemption, provided they are exclusively used for educational purposes.

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The GST Insider: Stay Informed, Stay Compliant

As we conclude this edition of **The GST Insider**, we hope the insights and updates have provided valuable knowledge to our readers. Our commitment remains steadfast in delivering timely, accurate, and relevant information to help you navigate the complexities of the GST landscape. We have explored significant developments and shared expert opinions to help you stay compliant and maximize benefits.

We are grateful for your continued support and engagement. Your feedback and suggestions are invaluable as we strive to make "The GST Insider" a trusted resource for all your GST-related needs.

Until the next issue, stay informed, stay compliant, and keep thriving in your business endeavors.

Email us for a copy and for more info!

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