



# THE GST INSIDER

**AUGUST 24 EDITION**  
**(1st Aug 24 to 15th Aug 24)**

**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

“

*Your potential is limitless; let your actions reflect your aspirations.*

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# »»» NEWSLETTER «««

# THE GST INSIDER



## TOP CASE LAWS OF THE MONTH

**SECOND SPECIAL ALL-INDIA  
DRIVE AGAINST FAKE  
REGISTRATIONS  
INSTRUCTION NO. 02/2024-GST**  
MINISTRY OF FINANCE, CBIC

### »»» READ MORE

A second special All-India drive against fake registrations may be conducted by all Central and State tax authorities for a period of two months starting from 16th August 2024 to 15th October 2024 to detect suspicious/ fake GSTINs.

.... Cont. on Page 4

### READ MORE «««

The court instructed that if the e-way bills, tax invoices, bank statements, and party ledger match the transactions for the relevant period, the genuineness of the transactions should not be questioned.

.... Cont. on Page 21

**REASSESSING ITC FROM  
CANCELLED DEALERS: FOCUS ON  
OVERLOOKED DOCUMENTATION  
AND VALID REGISTRATION**  
CALCUTTA HIGH COURT

# 2024 AUGUST

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	6	7	8	9	GSTR 7 (JULY 2024) GSTR 8 (JULY 2024)
GSTR 1 (JULY 2024)	12	GSTR 1/IFF (JULY 2024) GSTR 5 & 6 (JULY 2024)	14	15	16	17
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25	26	27	GSTR 11 (JULY 2024)	29	30	31 Adjudication date for 2019-20 (u/s-73)

# HIGHLIGHTS

- ▶ Second special all-India drive against fake registrations instruction no. 02/2024-GST - Department of Revenue, CBIC, GST Policy Wing, New Delhi, dated the 12th Aug, 2024..... **4**
- ▶ ITC is available for businesses dealing in second-hand luxury cars. You can claim credit on costs related to evaluation, refurbishment, and parts replacement. - Authority for Advance Ruling, Kerala..... **8**
- ▶ Input tax credit is available on demo cars if they are used for future supply after the demo period, provided depreciation is not claimed. - Authority for Advance Ruling, Kerala..... **10**
- ▶ Goods like pani puri and services like serving cooked food at the counter are taxable at a 5% GST rate. - Authority for Advance Ruling, Kerala..... **12**
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- ▶ Flying training services provided by an approved institute are GST-exempt for obtaining a commercial pilot license. - Authority for Advance Ruling, Maharashtra.. **17**
- ▶ No GST on electricity delivery charges! Inward supplies not eligible for CGST and SGST credit. - Authority for Advance Ruling, Maharashtra..... **18**
- ▶ Services before 18.07.2022, invoiced later for price escalation, attract 18% GST despite earlier 12% rate. - Authority for Advance Ruling, Odisha..... **19**
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# SECOND SPECIAL ALL-INDIA DRIVE AGAINST FAKE REGISTRATIONS

## INSTRUCTION NO. 02/2024-GST

(F. NO. CBIC-20/16/30/2020-GST MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, CBIC, GST POLICY WING, NEW DELHI, DATED THE 12TH AUG, 2024)



To,  
All the Principal Chief Commissioners/Chief Commissioners/  
Principal Commissioners/ /Commissioners of Central Tax.  
All the Principal Directors General/Directors General of Central Tax.  
Madam/Sir,

**Subject: Guidelines for Second special All-India Drive against fake registrations regarding.**

**Attention is invited to the Instruction No. 01/2023-GST dated 04.05.2023** vide which guidelines were issued for conducting a special All-India drive during the period from **16th May 2023 to 15th July 2023** (which was further extended till 14th August 2023), for **verification and detection of suspicious/ fake registrations** and for taking timely remedial action to prevent any further revenue loss to the Government. A **National Co-ordination Committee headed by Member (GST)**, CBIC and including the senior officers from different States and Centre was also formed to take decisions and monitor the progress of this special drive.

1.2 **A meeting of the said National Co-ordination Committee was held on 11th July 2024**, wherein it was discussed that the special All-India drive conducted during the year 2023, was found quite effective in weeding out fake registrations. The Committee felt that there may be a need for further focused and coordinated action by **Central and State tax authorities** to clean up the tax base and to take concerted action against the fake registrations and fake/bogus invoices, on the same pattern as was done during the said drive. It was, therefore, decided that **a second special All-India drive against fake registrations** may be conducted by all Central and State tax authorities **for a period of two months starting from 16th August 2024.**

1.3 The National Co-ordination Committee also decided that like the previous drive, a set of common guidelines may be issued to ensure uniformity in action by the field formations and for effective coordination and monitoring of the action taken during this special drive.

2. In the light of above, in partial modification of the Instruction No. 01/2023-GST dated 04.05.2023, the following guidelines are issued for such concerted action on suspicious/ fake registrations during the special All-India drive during this year:

### **a) Period of Special Drive:**

The second Special All-India Drive may be launched by all Central and State Tax administrations from **16th August 2024 to 15th October 2024 to detect suspicious/ fake GSTINs** and to conduct requisite verification and further remedial action to weed out these fake billers from the GST eco-system and to safeguard Government revenue.

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# SECOND SPECIAL ALL-INDIA DRIVE AGAINST FAKE REGISTRATIONS

## INSTRUCTION NO. 02/2024-GST



(F. NO. CBIC-20/16/30/2020-GST MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, CBIC, GST POLICY WING, NEW DELHI, DATED THE 12TH AUG, 2024)

### b) Identification of fraudulent GSTINs:

GSTN, in coordination with Directorate General of Analytics and Risk Management (DGARM), CBIC, will identify suspicious/ high-risk GSTINs, based on detailed data analytics and risk parameters, for the purpose of verification by the State and Central Tax authorities during the said drive and share the details of such suspicious GSTINs, jurisdiction wise, with the concerned tax administration. In case of such suspicious GSTINs falling under the jurisdiction of Central Tax, the details will be shared with the Central Tax authorities by GSTN through DGARM. Besides, the State and Central Tax Authorities, may, at their own option, supplement this list by data analysis/ intelligence gathering at their end, using various available analytical tools like BIFA/ GAIN, ADVAIT, NIC Prime, E-Way Bill Analytics etc., as well as through human intelligence, modus operandi alerts, experience gained through the past detections, as well as the first special All-India drive.

### c) Action to be taken by field formations:

- On receipt of data from GSTN, a time bound exercise of verification of the suspicious GSTINs shall be undertaken by the concerned jurisdictional tax officer(s). If, after detailed verification, **it is found that the taxpayer is nonexistent and fictitious, then the tax officer may immediately initiate action for suspension and cancellation of the registration** of the said taxpayer in accordance with the provisions of section 29 of CGST Act, read with the rules thereof.
- Further, the **matter may also be examined for blocking of input tax credit in Electronic Credit Ledger** as per the provisions of Rule 86A of CGST Rules without any delay. Additionally, the details of the recipients to whom the input tax credit has been passed by such non-existent taxpayer may be identified through the details furnished in FORM GSTR-1 by the said taxpayer.
- Where the recipient GSTIN pertains to the jurisdiction of the said tax authority itself, suitable action may be initiated for demand and recovery of the input tax credit wrongly availed by such recipient on the basis of invoice issued by the said non-existent supplier, without underlying supply of goods or services or both.
- In cases where the recipient GSTIN pertains to a different tax jurisdiction, the details of the case including the details of the recipient GSTIN, along with the relevant documents/ evidence, may be sent to the concerned tax authority, as early as possible, in the format mentioned in Annexure-B. For sharing such details/ information and coordination with other tax authorities, GSTN Back Office has an online functionality, namely, 'Initiate Enquiry' in the Enforcement module, which is available to all tax officers who have been assigned the role of 'Enforcement Officer' on the Back Office (BO Portal).

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# SECOND SPECIAL ALL-INDIA DRIVE AGAINST FAKE REGISTRATIONS



## INSTRUCTION NO. 02/2024-GST

(F. NO. CBIC-20/16/30/2020-GST MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, CBIC, GST POLICY WING, NEW DELHI, DATED THE 12TH AUG, 2024)

- For the purpose of communicating this information to the recipient tax jurisdiction, a nodal officer shall be appointed immediately by each of the Zonal CGST Zone and State. The name, designation, phone number/ mobile number and E-mail Id of such Nodal officer(s) appointed by CGST Zones and States must be shared by the concerned tax authority with GST Council Secretariat within three days of issuance of this letter. GST Council Secretariat will compile the list of the Nodal officers after procuring the details from all the tax administrations and will make the compiled list available to all the tax jurisdictions and to GSTN.
- The nodal officer of the tax jurisdictions may be assigned the role of 'Enforcement Officer' on the BO Portal. Wherever the details of the recipient GSTIN needs to be shared to other tax jurisdiction, the same may be done through the nodal officer. The said nodal officer will accordingly share the information about the recipient GSTIN with the nodal officer of the concerned recipient tax administration, through the said functionality, attaching a pdf document in the format mentioned in Annexure-B. The nodal officer of the recipient tax administration will further share the details with the concerned jurisdictional tax officers, for necessary action.
- GSTN will issue detailed guidelines/ advisory regarding usage of this functionality, which may be referred to.
- Action may also be taken to identify the masterminds/ beneficiaries behind such fake GSTIN for further action, wherever required, and also for recovery of Government dues and/ or provisional attachment of property/ bank accounts, etc. as per provisions of section 83 of CGST Act. Further, during the investigation/ verification, if any linked suspicious GSTIN is detected, similar action may be taken/ initiated in respect of the same.

### **d) Feedback and Reporting Mechanism:**

- An action-taken report in the format enclosed as Annexure-A (for GSTINs identified by GSTN and those identified locally) and Annexure-A1 (for those GSTINs received from other tax administrations through 'Initiate Enquiry' module) will be uploaded by each of the State as well as CGST Zones, through the nodal officer referred to in para 2(c)(v), on the portal provided for the same, on a weekly basis on the first working day after completion of the week, for enabling the GST Council Secretariat to monitor the same.
- If any novel modus operandi is detected during the verification/ investigation, the same may also be indicated in the said action taken report. On conclusion of the drive, GSTIN-wise feedback on the result of verification of the suspicious GSTINs shared by GSTN, will

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# SECOND SPECIAL ALL-INDIA DRIVE AGAINST FAKE REGISTRATIONS

## INSTRUCTION NO. 02/2024-GST

(F. NO. CBIC-20/16/30/2020-GST MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, CBIC, GST POLICY WING, NEW DELHI, DATED THE 12TH AUG, 2024)

be provided by the field formations through the nodal officer to GSTN, as per the format enclosed in Annexure-C.

3. The Principal Chief Commissioner/ Chief Commissioner of the Central GST Zones and the Chief Commissioner/ Commissioner of the States/ UTs may **monitor the progress of action taken in respect of list of suspicious GSTINs received from GSTN** and chosen locally. The action taken in respect of the GSTINs received from other tax administrations through the 'Initiate Enquiry' module may also be monitored.

4. GST Council Secretariat will compile the reports received from various formations and make it available to the National Coordination Committee immediately. The unique modus operandi found during this special drive will be compiled by GST Council Secretariat and presented before National Coordination Committee, which will be subsequently shared with Central and State Tax administrations across the country.

5. Difficulties, if any, in the implementation of these instructions may be brought to the notice of the Board ([gst-cbec@gov.in](mailto:gst-cbec@gov.in)).

**Sanjay Mangal,**  
**Principal Commissioner, GST**





# ITC IS AVAILABLE FOR BUSINESSES DEALING IN SECOND-HAND LUXURY CARS. YOU CAN CLAIM CREDIT ON COSTS RELATED TO EVALUATION, REFURBISHMENT, AND PARTS REPLACEMENT.

(M/S ROYALDRIVE PRE OWNED CARS LLP - AUTHORITY FOR ADVANCE RULING, KERALA)

## >>> FACTS OF THE CASE

M/s. Royaldrive Pre Owned Cars LLP, a limited liability partnership based in Malappuram, Kerala, is registered under the GST with GSTIN 32AAUFR0385F1Z2. The firm is engaged in the business of purchasing, refurbishing, and reselling old and used luxury cars. The applicant purchases these vehicles, often from unregistered individuals, and undertakes minor repairs and refurbishment before offering them for sale. In their business operations, the applicant incurs various expenses such as the cost of spare parts, repairs, and refurbishment services, in addition to overhead costs like office and showroom rent, telephone bills, advertising, and professional services.

The applicant seeks an advance ruling on whether they are eligible to claim input tax credit (ITC) on these expenses. Specifically, the applicant wants to know whether ITC can be claimed on direct expenditures related to the refurbishment of vehicles and on other business-related expenses, excluding the purchase of old or used motor vehicles as per Notification No. 08/2018-Central Tax (Rate) dated 25th January 2018. The applicant operates under this notification, which allows them to pay GST on the margin (i.e., the difference between the selling price and purchase price) when selling second-hand goods, such as used vehicles.

## >>> FINDINGS OF THE CASE

Upon reviewing the details presented by the applicant, it is established that the business model of M/s. Royaldrive Pre Owned Cars LLP involves buying used luxury cars, refurbishing them to enhance their value, and subsequently reselling them. The company primarily deals with second-hand goods, and their transactions are governed by Notification No. 08/2018-Central Tax (Rate) dated 25th January 2018. This notification specifies that GST is to be calculated on



the margin—defined as the difference between the selling price and the purchase price—when dealing with second-hand goods, provided no ITC is claimed on the purchase of such goods. The applicant contends that the restriction on availing ITC applies only to the purchase of old or used motor vehicles and should not extend to other expenses incurred in the course of business, such as repairs, refurbishment,

cont...



## ITC IS AVAILABLE FOR BUSINESSES DEALING IN SECOND-HAND LUXURY CARS. YOU CAN CLAIM CREDIT ON COSTS RELATED TO EVALUATION, REFURBISHMENT, AND PARTS REPLACEMENT.

(M/S ROYALDRIVE PRE OWNED CARS LLP - AUTHORITY FOR ADVANCE RULING, KERALA)

and other overheads. These expenses directly or indirectly contribute to the enhancement of the vehicle's value, thereby increasing the margin on which GST is paid.

The relevant sections of the CGST Act, particularly sections 16 to 21, and the corresponding CGST Rules (Rules 36 to 45), were examined to determine the eligibility of ITC. The provisions under section 16 of the CGST Act grant every registered person the right to claim ITC on goods or services used in the course or furtherance of their business, subject to certain conditions and restrictions. Additionally, the Act and Rules do not impose specific restrictions on claiming ITC for indirect expenses such as rent, telephone, and advertising, except where such expenses relate directly to the purchase of old or used vehicles.

The jurisdictional officer also provided comments based on a similar case, M/s Deccan Wheels, where the Maharashtra Advance Ruling Authority had ruled that ITC on indirect expenses is not available if the taxpayer opts to use Notification No. 08/2018-Central Tax (Rate) dated 25th January 2018. However, this ruling was found to be limited to the purchase of old or used motor vehicles and did not extend to other business expenses.

### >>> RULING

#### **Eligibility of ITC on Direct Expenditures:**

- The applicant is entitled to claim input tax credit on inward supplies related to direct expenses such as the purchase of

spare parts, repair services, and refurbishment costs associated with the vehicles. These expenses are directly related to the business's operation of refurbishing and reselling luxury cars. The eligibility to claim ITC on these expenses is subject to compliance with the conditions and restrictions laid out in sections 16 to 21 of the CGST Act and the corresponding Rules 36 to 45.

#### **Eligibility of ITC on Other Business Expenses:**

- The applicant is also eligible to claim input tax credit on other indirect business-related expenses. These include costs such as office and showroom rent, telephone bills, advertising, professional services, and capital goods. These expenses, while not directly associated with the vehicle refurbishment process, are crucial to the overall business operations. Therefore, ITC can be claimed on these expenses under the same conditions, provided they are used in the course or furtherance of the business.
- It is important to note that the restriction on availing ITC, as per Notification No. 08/2018-Central Tax (Rate), specifically applies to the purchase of old or used motor vehicles. This restriction does not extend to other goods and services used in the course of business, allowing the applicant to benefit from ITC on a wide range of expenses that contribute to their business operations.

# INPUT TAX CREDIT IS AVAILABLE ON DEMO CARS IF THEY ARE USED FOR FUTURE SUPPLY AFTER THE DEMO PERIOD. PROVIDED DEPRECIATION NOT CLAIMED.

(M/S. SAI SERVICE PRIVATE LIMITED - AUTHORITY FOR ADVANCE RULING, KERALA)

## »»» FACTS OF THE CASE

M/s. SAI SERVICE PRIVATE LIMITED, a company based in Pune with a registered office at Edappally, Ernakulam, Kerala, is engaged in the business of supplying motor cars and providing related services. As part of their operations, the company requires demonstration vehicles (demo cars) in their showrooms for potential customers to test drive, which is crucial for sales promotion. These demo vehicles are typically used for a period of two years or until they have covered 40,000 kilometers, whichever comes first. During this period, the vehicles are capitalized in the company's books as fixed assets, and depreciation is claimed under the Income Tax Act. However, Input Tax Credit (ITC) is not availed on



these vehicles. After the demo period, the vehicles are sold as second-hand cars, and the sales are subject to GST as per Notification No. 08/2018-Central Tax (Rate) dated 25-01-2018. The applicant seeks clarity on whether they are eligible to claim ITC on these demo vehicles.

## »»» FINDINGS OF THE CASE

The applicant has argued that the demo vehicles are essential for the furtherance of their business and, therefore, the inward supply of these vehicles should be eligible for ITC under Section 16(1) of the CGST Act, 2017. They assert that demo vehicles are not used for the transportation of persons but rather for demonstration purposes, which is integral to their business model. The applicant referenced various legal precedents, including judgments from the Supreme Court and Advance Ruling Authorities, to support their position that ITC should be available for these vehicles.

However, the case hinges on the applicability of Section 17(5) of the CGST Act, which imposes restrictions on availing ITC for motor vehicles used for the transportation of persons unless specific conditions are met. According to Section 17(5), ITC on motor vehicles is allowed only when the vehicles are used for further supply, transportation of passengers, or imparting training on driving such vehicles. The applicant contends that since the demo cars are eventually sold after the demo period, they qualify as vehicles used for "further supply," thereby making them eligible for ITC.

The jurisdictional officer did not provide any remarks on the case, and no pending proceedings were noted against the applicant. During the personal hearing, the applicant reiterated their arguments, emphasizing that demo vehicles are essential for business promotion and should be eligible for ITC, provided they are subsequently sold.

cont...

# INPUT TAX CREDIT IS AVAILABLE ON DEMO CARS IF THEY ARE USED FOR FUTURE SUPPLY AFTER THE DEMO PERIOD. PROVIDED DEPRECIATION NOT CLAIMED

(M/S. SAI SERVICE PRIVATE LIMITED - AUTHORITY FOR ADVANCE RULING, KERALA)

## >>> RULING

Based on the facts and arguments presented:

### 1. Eligibility for ITC on Demo Vehicles:

- The applicant is entitled to claim Input Tax Credit on the inward supply of motor vehicles used for demonstration purposes in their business. These vehicles are integral to the sales process, enabling potential customers to make informed purchasing decisions. The ITC eligibility is supported by the provision that these vehicles are eventually used for further supply after the demo period.

### 2. Conditions for Availing ITC:

- This ruling is contingent on the condition that the demo vehicles are indeed used for further supply after their demonstration period. If the vehicles are not sold after the demo period or if depreciation is claimed on the tax component of the cost of these vehicles, the eligibility for ITC may be impacted. The applicant must ensure compliance with the relevant provisions under Section 16 and Section 17(5) of the CGST Act to fully avail ITC.

In conclusion, M/s. SAI SERVICE PRIVATE LIMITED can claim ITC on the demo vehicles, provided they meet the conditions outlined above, ensuring that these vehicles are utilized in a manner consistent with the provisions of the GST law.



## GOODS LIKE PANI PURI AND SERVICES LIKE SERVING COOKED FOOD AT THE COUNTER ARE TAXABLE AT 5% GST RATE.

(M/S. DEVALOKAM BAKERY, AUTHORITY FOR ADVANCE RULING, KERALA )

### >>> FACTS OF THE CASE

M/S Devalokam Bakery, located at Kunnumpuram, Thrikkakara, Kakkanad, is engaged in the business of selling food products, including bakery items. The bakery is registered under the GST Act 2017 with GSTIN 32AATFD1308H1ZO. The bakery operates a separate counter at its premises where it cooks and sells items such as Pani Puri, Masala Chat, Punjabi Lassi, Sev Puri, Samosa Chat, Vada Pav, and Pav Bhaji. These items are sold in a ready-to-eat condition directly to customers who consume them at the counter. The applicant sought an advance ruling to determine whether the sale of these items qualifies as restaurant services taxable at 5%, and if so, what the applicable GST rate is for such services.

### >>> FINDINGS OF THE CASE

The issue examined was whether the sale of cooked food items at the counter of Devalokam Bakery constitutes the supply of goods or services under GST. According to Clause 6(b) of Schedule II of the CGST Act, 2017, the supply of food or beverages for human consumption is considered a service when provided as part of any service or in any manner. The bakery's sales of ready-to-eat items at the counter were determined to fall under the category of "Services provided by restaurants, cafes, and similar eating facilities," classified under HSN 996331. The ruling clarified that these services are taxable under GST at 5% if no input tax credit is availed, provided the bakery is not located in premises such as hotels or

inns with a declared tariff of ₹7,500 or more per unit per day. If the bakery is located in such premises, the applicable GST rate is 18%.

### >>> RULING

#### **Taxability of Cooked and Sold Items:**

The sales of items such as Pani Puri, Masala Chat, Punjabi Lassi, Sev Puri, Samosa Chat, Vada Pav, and Pav Bhaji at the counter of the applicant fall under "Services provided by restaurants, cafes, and similar eating facilities," classified under HSN 996331. The applicable GST rate is 5%, provided the bakery does not avail input tax credit and is not located in premises with a declared tariff of ₹7,500 or more per unit per day. If located in such premises, the GST rate is 18%.



#### **Applicable Rate of GST for Restaurant Services:**

The GST rate for the restaurant services provided by the bakery is 5% if the above conditions are met. If the bakery operates from premises with a declared tariff of ₹7,500 or more per unit per day, the GST rate is 18%.



## PLASTIC PARTS LIKE ROPE HANDLES AND VENT PLUGS FOR LEAD ACID BATTERIES FALL UNDER HEADING 8507.

(M/S. VM POLYMERS (MOHAN SUJATHA), AUTHORITY FOR ADVANCE RULING, TAMILNADU)

### >>> FACTS OF THE CASE

M/s V M Polymers, located in Coimbatore, is engaged in the business of manufacturing plastic articles used as parts of electric accumulators, commonly known as high-power batteries. These products include items such as rope handles, vent plugs, and split top/bottom supports, all made from plastic materials like polypropylene and polyethylene. The company is registered under the GST Act and has sought an advance ruling on the classification of these products under the Harmonized System (HS) codes. Specifically, the applicant seeks to determine whether their products fall under HS code 3926 (Other articles of plastics) or 8507 (Electric accumulators and parts thereof) and what the applicable GST rate should be.



### >>> FINDINGS OF THE CASE

Upon examining the case, it was found that the applicant's products—rope handle, vent plug, and split top/bottom support—are all made from plastic

materials and are used as parts or accessories for lead-acid batteries or electric accumulators. The applicant argued that these products should be classified under HS code 3926, which deals with other articles of plastics. However, the concerned tax authorities contended that the products should be classified under HS code 8507, which specifically covers parts of electric accumulators. The authorities pointed out that the classification should be determined according to the terms of the headings, relevant Section or Chapter Notes, and General Rules of Interpretation (GRI) of the Customs Tariff Act, 1975. They concluded that the products in question fall under HS code 8507, as they are parts of electric accumulators, and Chapter Note 2(s) to Chapter 39 excludes articles of machines and electrical appliances from being classified under Chapter 39.

### >>> RULING

The products manufactured by M/s V M Polymers, namely rope handle, vent plug, and split top/bottom support, are classified under HS code 8507 as parts of electric accumulators. Consequently, the applicable GST rate for these products is 28%, with 14% CGST and 14% SGST, as per Schedule IV of Notification No. 01/2017-C.T. (Rate) dated 28.06.2017, as amended. The applicant's contention that the products should fall under HS code 3926 was not upheld, as the rules of interpretation and relevant Chapter Notes support the classification under HS code 8507.



## PETITIONER IS ENTITLED TO AN UNUTILIZED ITC REFUND ON EXPORTS. BRC DELAYS CAN'T DENY THE REFUND.

(RAJIV SHARMA HUF PROPRIETOR OF M/S. SAGAR SCOOTER SYNDICATE THROUGH ITS KARTA RAJIV SHARMA VERSUS UNION OF INDIA AND ORS. - DELHI HIGH COURT)

The petitioner, a Hindu Undivided Family (HUF), operates a proprietorship business named 'M/s Sagar Scooter Syndicate,' involved in trading and exporting automotive spare parts and related products. The petitioner is registered under the Central Goods and Services Tax (CGST) Act, 2017, with GSTIN: 07AAPHR6437P1Z6. The case arose when the petitioner sought a refund of ₹12,82,643 for accumulated Input Tax Credit (ITC) for November 2021, claiming the refund was due for zero-rated exports made without payment of tax. The Adjudicating Authority issued a Show Cause Notice (SCN), proposing to reject the refund due to discrepancies in certain invoices, the absence of Bank Realization Certificates (BRCs), and incomplete bank statements and ledger details of suppliers. Despite the petitioner's explanations and provision of required documents, the refund was denied primarily on the grounds that BRCs were not provided in a timely manner and the financial records were incomplete.

The petitioner appealed this decision, arguing that BRCs were not a necessary condition for claiming a refund on export goods under Section 16 of the Integrated Goods and Services Tax (IGST) Act, 2017. The appellate authority, however, rejected this argument, citing Rule 96B of the CGST Rules, which mandates the recovery of refunded amounts if export proceeds are not realized within the stipulated period under the Foreign Exchange

Management Act (FEMA). The appellate authority reasoned that granting the refund would be futile if the petitioner had to re-deposit the amount due to the non-realization of export proceeds. However, the court found this reasoning flawed, as Rule 96B(2) allows for the refund of recovered amounts upon subsequent realization of export proceeds. Moreover, the court noted that the petitioner did eventually provide the BRCs, thus invalidating the basis for the refund rejection on this ground.

Regarding the issue of incomplete financial records, the appellate authority upheld the adjudicating authority's decision, emphasizing the need to verify that the petitioner had made payments to suppliers for the inward supplies, as required by Section 16(2)(c) of the CGST Act. The court acknowledged the adjudicating authority's concerns but found it appropriate to remand the matter for fresh examination. The court set aside the impugned orders and directed the adjudicating authority to reassess whether the petitioner had indeed made payments for the inward supplies in question. The petitioner was granted the opportunity to submit any necessary documentation, and the adjudicating authority was instructed to issue a reasoned order after providing the petitioner with an opportunity for a hearing. The petition was disposed of accordingly.





## AD SPACE SUPPLY IN PRINT MEDIA FOR MUNICIPAL MEDICAL STAFF RECRUITMENT IS GST-EXEMPT AS A PURE SERVICE.

(M/S. LOKMAT MEDIA PRIVATE LIMITED, AUTHORITY FOR ADVANCE RULING, MAHARASHTRA)

### >>> FACTS OF THE CASE

M/s. Lokmat Media Pvt Ltd., with GSTIN 27AAACL1888J1Z6, is a well-known newspaper publisher in Maharashtra, producing daily newspapers in Marathi, Hindi, and English languages. The company derives its revenue primarily through two interrelated business activities: the sale of newspapers and the sale of advertising space in print media. The printed newspapers serve as the medium for displaying advertisements, which are charged to customers, including government bodies like the Pune Municipal Corporation (PMC) and Pimpri Chinchwad Municipal Corporation (PCMC). The cost of producing the newspaper is common to both revenue streams. The applicant charges GST on the sale of advertising space in print media at a rate of 5%, as per Notification No. 11/2017-Central Tax (Rate), under Chapter Heading 9983. However, PMC and PCMC have contested this, claiming that the service qualifies as "Pure Services" and is exempt from GST under Notification No. 12/2017-Central Tax (Rate). They argue that since the service provided is to local authorities and relates to functions entrusted to Municipalities under Article 243W of the Constitution, it should not attract GST.

### >>> FINDINGS OF THE CASE

The applicant, Lokmat Media Pvt Ltd., offers services of selling space for advertisements in their newspapers to various customers, including local government bodies such as PMC and PCMC. The issue at hand revolves

around whether this service falls under the category of "Pure Services," which are exempt from GST when provided to government bodies for functions entrusted under Article 243W of the Constitution. The applicant asserts that their service involves not only the provision of advertising space but also the supply of goods in the form of newspapers, which disqualifies it from being classified as "Pure Services." They further argue that the service of selling advertising space does not directly relate to any specific function entrusted to Municipalities under Article 243W, such as public health or education, and therefore, should not be exempt from GST. The Jurisdictional Officer concurred that while the service could be considered as "Pure Services," it does not relate to the functions mentioned under Article 243W of the Constitution, and hence, may not be eligible for the exemption.





## AD SPACE SUPPLY IN PRINT MEDIA FOR MUNICIPAL MEDICAL STAFF RECRUITMENT IS GST-EXEMPT AS A PURE SERVICE.

(M/S. LOKMAT MEDIA PRIVATE LIMITED, AUTHORITY FOR ADVANCE RULING, MAHARASHTRA)

### >>> RULING

After a thorough examination of the facts and legal provisions, the Authority for Advance Rulings (AAR) concluded that the service provided by Lokmat Media Pvt Ltd., i.e., the sale of space for advertisements in print media, qualifies as "Pure Services" under Entry No. 3 of Notification No. 12/2017-Central Tax (Rate). The ruling was based on the determination that these services, when provided to local authorities such as PMC and PCMC, are in relation to the functions of education and health, including primary and secondary schools, hospitals, and primary health centers, as outlined under Article 243G and Article 243W of the Constitution. The AAR emphasized that although the service involves the publication of advertisements, which is a necessary activity for the recruitment of medical officers and other professionals for public health services, it is considered an activity related to the functions entrusted to Municipalities. Consequently, the service is exempt from GST. The AAR further clarified that this exemption applies specifically because the service is provided in the context of fulfilling the constitutional functions of the Municipalities, even if the connection to these functions is indirect. Thus, the applicant is not liable to charge GST on these services provided to PMC and PCMC.

# FLYING TRAINING SERVICES PROVIDED BY AN APPROVED INSTITUTE ARE GST-EXEMPT FOR OBTAINING A COMMERCIAL PILOT LICENSE.

(M/S. NATIONAL FLYING TRAINING INSTITUTE, AUTHORITY FOR ADVANCE RULING, MAHARASHTRA)

## »»» FACTS OF THE CASE

M/s. National Flying Training Institute Private Limited (NFTI), a joint venture between Airports Authority of India (AAI) and International Flight School (Mauritius) Limited, is engaged in providing various types of flying training services to trainees aspiring to obtain licenses and ratings from the Directorate General of Civil Aviation (DGCA) at its facility in Gondia, Maharashtra. These services are delivered as per the DGCA-approved curriculum, including theoretical knowledge training, synthetic flight training, and in-air flying training, which are essential for obtaining a Commercial Pilot's License (CPL) under the Aircraft Rules, 1937. NFTI has been providing these services since 2008 and has historically considered them exempt from service tax. The institute's contention revolves around the interpretation of whether their services fall under the exemption provided for educational services under the GST law.

## »»» FINDINGS OF THE CASE

The core issue examined was whether NFTI qualifies as an educational institution providing services that are exempt from GST under Entry 66 of the Notification No. 12/2017-Central Tax (Rate) dated 28th June 2017. The authorities analyzed the relevant provisions of the Aircraft Act, 1934, the Aircraft Rules, 1937, and the Civil Aviation Requirements (CARs) issued by the DGCA, which govern the licensing and training requirements for pilots. It

was noted that the curriculum and training programs conducted by NFTI are approved by the DGCA and that the certificates issued by NFTI are mandatory for trainees to apply for a CPL from the DGCA. The judgment also referred to similar cases under the service tax regime where courts had ruled in favor of considering such training as a qualification recognized by law.



## »»» RULING

The authority concluded that NFTI's services qualify as educational services under the GST law, specifically as "education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force." Therefore, the flying training services provided by NFTI to their trainees for obtaining a CPL (Aeroplanes) are exempt from GST under Entry 66 of the Notification No. 12/2017-Central Tax (Rate). The ruling emphasized that despite the ongoing appeal in similar cases, the existing legal precedent set by the High Courts supports the exemption of such services from GST. The applicability of this ruling is based on the current legal framework and the specific facts of the case as they align with the provisions of the GST law.



## NO GST ON ELECTRICITY DELIVERY CHARGES! INWARD SUPPLIES NOT ELIGIBLE FOR CGST AND SGST CREDIT.

(M/S. AES ENGINEERING SOLAR PRIVATE LIMITED, AUTHORITY FOR ADVANCE RULING, MAHARASHTRA)

### >>> FACTS OF THE CASE

The applicant is a company registered under the Companies Act, 2013, engaged in the production of electrical energy through its solar power plant located in Village Nagansur, Taluka Akkalkot, District Solapur, Maharashtra. The applicant entered into a Power Purchase Agreement (PPA) with Phillip Commodities India Private Limited on 8th February 2013, with a corrigendum dated 9th March 2023 extending the agreement's tenure until 30th April 2023. As per the agreement, the applicant is required to supply up to 2 MW of electricity to Phillip Commodities at the delivery point, which is defined as the busbar of the end consumer's connection with the DISCOM. The electricity generated is delivered to a pooling sub-station connected to the Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) grid, from where it is transmitted to the ultimate consumer, Kores India Limited. The applicant's involvement ends at the delivery of electricity to the pooling sub-station.

### >>> FINDINGS OF THE CASE

The primary issue was to determine whether the applicant's activities of producing and supplying electrical energy, along with any associated transmission and distribution, were subject to Goods and Services Tax (GST). The applicant argued that the supply of electrical energy, being a good under Customs Tariff Heading 27160000, is exempt from GST as per Notification No. 2/2017-Central Tax (Rate). Furthermore, the applicant

contended that as it is not directly involved in the transmission and distribution of electricity to the end consumer, but only in the production and initial delivery to the pooling sub-station, it is not liable for GST on these services. The jurisdictional officer concurred that the supply of electricity is exempt but maintained that the applicant cannot claim input tax credit (ITC) for the procurement of the solar power plant since the output supply is exempt from GST.



### >>> RULING

The authority ruled that the applicant is not liable to pay GST on the intra-state or inter-state delivery of electrical energy as the supply of electricity is exempt under Notification No. 2/2017-Central Tax (Rate) and Notification No. 2/2017-Integrated Tax (Rate). Consequently, as the applicant's output supply is exempt from GST, the applicant is not entitled to claim input tax credit on the inward supplies of goods, services, or capital goods (including the procurement of the solar power plant) used in generating electricity, in accordance with Section 17 of the GST Act and Rules 42 and 43.



## SERVICES BEFORE 18.07.2022, INVOICED LATER FOR PRICE ESCALATION, ATTRACT 18% GST DESPITE EARLIER 12% RATE.

(M/S. UNIVERSAL MEP PROJECTS & ENGINEERING SERVICES LTD., AUTHORITY FOR ADVANCE RULING, ODISHA)

### >>> FACTS OF THE CASE

The applicant, a 100% subsidiary of Voltas Ltd., has sought a ruling regarding the applicable rate of GST on price adjustment invoices related to a works contract. The original contract, awarded to Voltas Ltd. by the Rural Water Supply & Sanitation Department (RWSS), Government of Odisha, on March 19, 2020, was for an Engineering, Procurement, and Construction (EPC) project concerning a Rural Piped Water Supply Project in Sudergarh District, Odisha. The works contract was subsequently transferred to the applicant company. The contract included a price variation clause (Clause 19.10), allowing adjustments based on the cost of raw materials and labor charges. The applicant issued invoices under this contract with a GST rate of 12% (CGST @ 6% and SGST @ 6%), as per Notification No. 24/2017-Central Tax (Rate) dated September 21, 2017. The applicant is now required to issue price adjustment invoices for services rendered before July 18, 2022, due to the price escalation clause in the contract. The question posed by the applicant is whether these price adjustment invoices should be taxed at 12% or 18%, considering the amendment made by Notification No. 3/2022-CT (Rate) dated July 13, 2022, which increased the GST rate on works contracts to 18% effective from July 18, 2022.

### >>> FINDINGS OF THE CASE

Upon examining the application and relevant documents, it was observed

that the original works contract was executed and invoiced before the GST rate change on July 18, 2022. The applicant had been charging a 12% GST rate as per the applicable notification at that time. However, due to the price escalation clause in the contract, the applicant now needs to issue supplementary invoices. The core issue is to determine the applicable GST rate on these supplementary invoices, considering the change in GST rate from 12% to 18% that came into effect on July 18, 2022. According to Section 14 of the CGST Act, 2017, which addresses the time of supply when there is a change in



the tax rate, the applicable rate is determined based on the timing of three events: the supply of goods or services, the issuance of invoices, and the receipt of payment. In this case, since the services were supplied before the rate change and the supplementary invoices are to be issued after the rate change, the applicable rate of GST will be

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## SERVICES BEFORE 18.07.2022, INVOICED LATER FOR PRICE ESCALATION, ATTRACT 18% GST DESPITE EARLIER 12% RATE.

(M/S. UNIVERSAL MEP PROJECTS & ENGINEERING SERVICES LTD., AUTHORITY FOR ADVANCE RULING, ODISHA)

determined based on Section 14(a)(i) of the CGST Act, 2017.

### >>> RULING

Based on the examination of facts and the relevant provisions of the CGST Act, 2017, the ruling is as follows: The applicable rate of GST on the price adjustment invoices to be raised for services supplied before July 18, 2022, under the works contract executed by the applicant for the contractee RWSS, Government of Odisha, will be 18% (CGST @ 9% and SGST @ 9%). This conclusion is drawn from the provisions of Section 14(a)(i) of the CGST Act, 2017, which states that the time of supply, in cases where both the issuance of invoices and receipt of payment occur after a change in tax rate, shall be the earlier of the two dates. Therefore, the price adjustment invoices, which are to be issued after the rate change, are subject to the new GST rate of 18%. The applicant or the jurisdictional officer may appeal this ruling to the Odisha State Appellate Authority for Advance Ruling within 30 days from the date of receipt of this ruling.



## REASSESSING ITC FROM CANCELLED DEALERS: FOCUS ON OVERLOOKED DOCUMENTATION AND VALID REGISTRATION.

(SHIVA CHEMICALS & ANR. VERSUS ASSISTANT COMMISSIONER OF REVENUE, STATE TAX JORASANKO AND JORABAGAN CHARGE - CALCUTTA HIGH COURT)

The petitioner, a business entity engaged in trading and exporting automotive spare parts, filed a writ petition challenging an order dated 13th April 2022 issued under Section 73 of the WBGST/CGST Act, 2017. The issue arose from a show-cause notice accusing the petitioner of availing and utilizing Input Tax Credit (ITC) amounting to ₹18,79,978/- based on supplies from four vendors whose GST registrations were later canceled. The petitioner contends that the appellate authority, in its order dated 17th July 2023, ignored crucial documents presented during the appeal process, which included party ledgers, inward supply tax invoices, bank statements, and GSTR-2A forms.

The petitioner argued that the relevant documents, such as e-way bills and bank statements, were produced to establish the validity of the transactions and the movement of goods, but these were overlooked by the appellate authority. Additionally, the petitioner highlighted that the cancellation of the supplier's registration occurred after the relevant tax period, which should not impact the legitimacy of the ITC claimed. The petitioner contends that the appellate authority's decision was based on an incorrect assessment and lacked proper consideration of the evidence provided.

In response, the respondents maintained that the burden of proof for claiming ITC lies with the petitioner, and the petitioner failed to produce sufficient documentation to prove the actual

movement of goods. The appellate authority upheld the denial of ITC, arguing that the petitioner did not provide adequate proof of transportation, such as loading and unloading expenses or other related vouchers.

After considering the submissions, the court noted that the petitioner had indeed discharged its initial burden of proof by providing necessary documents, including e-way bills and tax invoices, which were not contested by the respondents. The court found that the appellate authority's decision suffered from non-application of mind and was perverse. The appellate authority failed to specify what additional documents were required from the petitioner to substantiate the claim further.

The court, therefore, remanded the matter back to the appellate authority for reconsideration. The appellate authority was directed to reassess the case, particularly focusing on the movement of goods and the consistency of the documents provided by the petitioner. The court instructed that if the e-way bills, tax invoices, bank statements, and party ledger match the transactions for the relevant period, the genuineness of the transactions should not be questioned. The appellate authority was ordered to resolve the matter within eight weeks, allowing the petitioner to submit any additional documents if necessary. The deposit made by the petitioner was to be treated as a pre-deposit for all practical purposes under Section 112(8) of the said Act. The writ petition was disposed of with no order as to costs.

# MORE INFORMATION ABOUT US



## 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!**

## CONTACT US :



Phone Number  
**+91-9718668812**



Email Address  
**casamarpitsharma@gmail.com**

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Prepared by: CA. Samarpit Sharma