

GST GUIDE



Extension of various GST Returns due date on account of pandemic situation

Reduction in Interest Rate & waiver of late fees announced for filing GST returns.

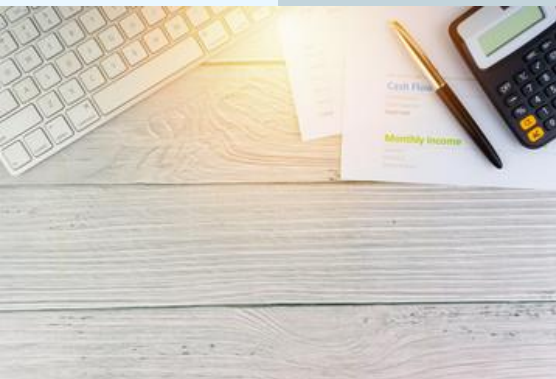
Restriction as per Rule 36(4) to be cumulatively applied in June GSTR 3B for the period April to June.

ITC eligible on free supply of goods as part of CSR Activities - Dwarikesh Sugar Industries – UP AAR

No GST can be demanded from Buyer for fault of Seller of non-payment of taxes to Govt – Madras High Court

Tax Rate mandatory in case of HSN summary.

CONTENTS



- 1** Notifications, Circulars & Amendments to GST Laws
- 2** Advance Authority Rulings (GST)
- 3** Case Laws
- 4** Updates on RAMA-IRIS GST Compliance Tool & GST Portal

Notifications, Circulars and Amendments to Law/Rule



Notification No. 08/2021 – Central Tax dt. 01-May-21 & Notification No.18/2021-Central Tax dt.01-Jun-21 – Reduction in Interest Rates due to Pandemic Situation

Category of taxpayer	Tax Period	Turnover	Applicable Interest Rates
Regular taxpayer	Mar-21, Apr-21, & May-21	> Rs.5 Cr in PY	For first 15 days from due date - 9%, Thereafter- 18%
Regular taxpayer- Monthly Scheme	Mar-21, Apr-21, & May-21	up to Rs.5 Cr in PY	For first 15 days from due date - NIL, For next 15 days- 9% Thereafter- 18%
Regular taxpayer- Quarterly Scheme (QRMP)	Mar-21, Apr-21, & May-21	up to Rs.5 Cr in PY	For first 15 days from due date - NIL, For next 15 days- 9% Thereafter- 18%
Composition taxpayer	Jan-21- March'21 Quarter	–	For first 15 days from due date- NIL, For next 15 days- 9% Thereafter- 18%

RAMA Says:- The big taxpayers having turnover of more than Rs.5 crores have taken mixed approach on the delayed filing of returns depending upon the cash flow situation. Decision has been taken on the basis of comparison of interest rate @ 9% with interest rate on bank loan. This step by the government will surely help the taxpayers to plan their GST compliances.

Amnesty Scheme for Late Fees (Notification No.19/2021- Central Tax)

Amnesty Scheme for Taxpayers towards reduced late fee for pending returns from Jul-17 to Apr-21:-

#	Particulars	Late Fee
1	Taxpayer having no GST liability	Max Rs.500 (Rs.250 each for CGST and SGST)
2	Other Taxpayers	Max Rs. 1000 (Rs.500 each for CGST and SGST)

**Provided that GSTR3B for Jul-17 to Mar-21 are filed between 01-Jun-21 to 31-Aug-21*

Notifications, Circulars and Amendments to Law/Rule

➤ **RAMA Says:-** This is the welcome step by the default taxpayer as they can now become GST compliant with reduced cost. But the government has not decided upon the genuine taxpayers who have filed their returns by paying huge amount of late fees. Many a times late fees have been waived off from retrospective effect and by the time many of the taxpayers have already discharged their late fees. There should be a provision of refund of late fees if the fees for late filing of returns is reduced retrospectively.

II. Late Fee for the Prospective returns is being rationalized as per the given table

Type of Taxpayers	Particulars	Late Fee
Normal Taxpayers - (GSTR1 and GSTR3B)	Taxpayer having Nil GSTR3B or Nil GSTR1	Max Rs. 500 (Rs.250 each for CGST and SGST)
	Other Taxpayers having Aggregate Turnover of :-	
	up to Rs.1.5 crores	Max Rs.2000 (Rs.1000 each for CGST and SGST)
	Between Rs.1.5 crores to Rs.5 Crores	Max Rs.5000 (Rs.2500 each for CGST and SGST)
	Above Rs.5 crores	Max Rs.10000 (Rs.5000 each for CGST and SGST)
Composition Dealers - (GSTR4)	Taxpayers having Nil Liability	Max 500 (Rs.250 each for CGST and SGST)
Taxpayer covered under section 51 (TDS Deductor)		Min Rs.50 per day (Rs.25 each for CGST and SGST) Max Rs.2000 (Rs.1000 each for CGST and SGST)

Notifications, Circulars and Amendments to Law/Rule

III. Late Fee Waived for Mar to May-21 for a Specified Period

Sr. No.	Class of Registered Persons	Tax period	Waiver of Late Fees if Filed within
1.	Turnover > Rs.5 Cr in PY	Mar-21 to May-21	15 days from the Due Date
2.	Turnover up to Rs.5 Cr in PY	Mar-21	60 Days from the Due Date
		Apr-21	45 Days from Due date
		May-21	30 Days from Due Date
3.	Turnover up to Rs.5 Cr in PY (under QMPR)	Jan-21- Mar-21	60 Days from the Due Date

Extension of Due Dates of GST Returns for the period Mar-21 to May-21

Notification No.	Return Type	Periodicity	Revised Due Date
10/2021-CT & 25/2021-CT	GSTR-04-Composition Dealer	FY 20-21	31-Jul-21
12/2021-CT dt 01-May-21 & 17/2021-CT dt-01-Jun-21	GSTR-01 -Regular Taxpayer	Mar-21	26-Apr-21
		Apr-21	26-May-21
		May-21	26-Jun-21
13/2021-CT-dt 01-May-21	IFF - Quarterly Return filers	Apr-21	28-May-21
17/2021-CT dt 01-Jun-21		May-21	29-Jun-21
11/2021-CT dt 01-May-21 & 26/2021-CT dt 01-Jun-21	ITC- 04	Jan to Mar-21	30-Jun-21

Notifications, Circulars and Amendments to Law/Rule

Other Notifications

Notification No.	Amendment Related to	Notification Details
07/2021 – Central Tax dt. 27-Apr-2021	Returns can be filed through EVC	Companies allowed to furnish GSTR 1/IFF and GSTR 3B through EVC during the period 27 th April 2021 to 31 st May 2021.
13/2021-Central Tax 01-May-21	Rule 36 (4)- 5% Provision for availment if ITC	<p>Rule 36(4) restricts the availment of input tax credit beyond 5% of ITC reflected in Form GSTR 2A/2B.</p> <p>However, said restriction will apply cumulatively for the period April & May, 2021 and the return in FORM GSTR-3B for the month of May-21 is to be furnished with the cumulative adjustment of input tax credit for those months.</p> <p>RAMA Says:- It's a welcome step by the taxpayers. In pandemic situation where the taxpayers are facing huge cash crunch, this provision will surely help them to reduce their net cash outflow and plan their other business expenditure.</p>
	Rule 23 -Amendment for Revocation of Registration	<p>Where registration is cancelled by the proper officer on his own, the registered person may submit an application (REG-21) within 30 days <u>or within such extended time allowed by Additional Commissioner or Joint Commissioner or Commissioner</u> from the date of service of order of cancellation of registration at the common portal.</p> <p>Circular no. 148/04/2021 is also issued to clarify the procedure of revocation of cancellation of registration. It can be explained in the flowchart as per Annexure A.</p>
14/2021-Central Tax-01-May-21	Extension of timelines due to existing pandemic situation	Where, any time limit for completion or compliance of any action, by any authority or by any person, which falls during the period from the 15th day of April,2021 to the 30th day of May, 2021, the time limit for completion or compliance of such action, shall be extended up to the 31st day of May, 2021 .

Notifications, Circulars and Amendments to Law/Rule

Notification No.	Amendment Related to	Notification Details
15/2021-Central Tax- 18-May-21	Exclusion of time period for the date of filing refund application till the date of communication of deficiencies.	<p>Days counting from Filing of Refund in RFD 01 to Communication of Deficiencies in RFD 03, not to be counted in the period of 2 years in case of fresh refund application after rectifying the deficiencies.</p> <p>Form RFD -01W introduced, being refund withdrawal form, which can be filed before RFD 04 or RFD 05 or RFD 06 or RFD 07 or RFD 08.</p> <p>On submission of RFD 01W, amount debited from Electronic Credit Ledger shall be credited back.</p> <p>➤ RAMA Says:- Many a times it is observed that there are delays in issue of deficiency memos under RFD-03 and by the time due date for filing fresh application is already lapsed. If this amendment would have been implemented retrospectively, many genuine taxpayer would have been able to file their refund application which has been lapsed due to delay in receipt of response from the department.</p>
03/2021-Integrated Tax dt-02-Jun-21	Change Place of Supply for B2B MRO Service in case of Shipping Industry	<p>Supply of maintenance, repair or overhaul service in respect of ships and other vessel, their engine and other components or parts supplied to a person for use in the course or furtherance of business, the place of supply of services shall be the location of the recipient of service.</p> <p>➤ RAMA Says:- It may lead to litigation in case of MRO services provided by Foreign vendors who cannot be classified as B2B Supplies. In case vessels belong to Indian Company which are outside India and MRO services is also provided outside India, as per this notification, Indian company is liable to discharge GST Liability on RCM basis. Even though Indian Entity is eligible to avail ITC for tax paid on RCM basis, however it may lead to blockage of funds where ITC is unutilized.</p>

Advance Authority Rulings

ITC eligible on free supply of goods as part of CSR Activities

Dwarikesh Sugar Industries – UP AAR

Facts - Dwarikesh Sugar Industries, which has the business of manufacture and sale of sugar and allied products, the firm undergoes several CSR activities. This consists of the construction of school buildings, free supply of furniture, and free supply of electrical goods for use in school.

For the provision of these goods, the petitioner availed that GST was summoned through the supplier and wanted to determine if it was liable for the input tax credit.

UP AAR ruling - UP AAR mentioned that CSR expenses are made important through the Companies Act 2013 and is the responsibility of the petitioner to sustain an expense so as to complain in the law.

Under Section 17(5) of the Central GST (CGST) Act. According to Section 17(5) of the CGST Act, the CSR expenses are not sustained voluntarily, they will not succeed as gifts. Thus, credit will not be limited the input tax credit is not made present for the goods lost, stolen, or provided as free samples or gifts. The UP Authority of Advance Rulings (AAR) has held that the company will be liable for the input tax credit for sustaining the CSR spend.

Contradiction of the Kerala AAR-

However, for the case of Polycab wires who has provided the electrical items such as switches, fans, and cables to flood-affected people

Authority for Advance Ruling



beneath the CSR expenses for free, the Kerala AAR held that “for these transactions, the input tax credit will not be available”

The organizations had given the goods free of cost to Kerala state Electricity Board (KSEB) for restoring connectivity in the flood-affected places as it is part of the ‘mission reconnect’ a CSR activity. The distributors have provided the tax invoices to KSEB which show the sale value, GST, and the total amount through a 100% discount.

RAMA Says- With the contradictory views of the two different states for AAR it becomes difficult for the taxpayer to analyse and apply the provisions of law. Further the CSR activities is an obligatory requirement which the companies have to comply with. CSR activities are done for the betterment of the society in general and hence considering the development of the society the GST law shall recognize this as an eligible ITC for the business.

Case Laws

Case Law: No GST can be demanded from Buyer for fault of Seller of non-payment of taxes to Govt

D. Y. Beathel Enterprises v. the State Tax Officer

Overview- The Hon'ble Madras High Court quashed the order passed by the officer levying the entire tax liability on the purchasing dealer without involving the seller, where the payment of tax has been made by the purchasing dealer, but the same has not been remitted to the Government by the Seller. Held that, the omission on the part of the Seller to remit the tax should have been viewed very seriously and strict action ought to have been initiated against the seller.

Facts of the case- M/s. D. Y. Beathel Enterprises (**"the Petitioner"**) herein are dealers of Raw Rubber Sheets. According to the Petitioner they had purchased goods from Charles and his wife Shanthy (**"Sellers"**) and the payments were made by the Petitioners to Sellers included the tax component. A substantial portion of the sale consideration was paid through banking channels. Based on the returns filed by the Sellers, the Petitioner availed Input Tax Credit (**"ITC"**).

During inspection by the State Tax Officer (**"the Respondent"**), it came to light that Sellers did not pay any tax to the Government, which necessitated initiation of the proceedings and issuance of show cause notices to the Petitioner. The Petitioner submitted their replies specifically taking the stand that all the amounts payable by them had been already paid, therefore, those Sellers will have to be necessarily confronted during enquiry. Subsequently, without



involving the Sellers, the Respondent passed an order (**"impugned order"**) levying the entire liability on the Petitioners.

Being aggrieved, the Petitioner has filed this petition against the impugned order.

What was the Issue?

Can the Respondent levy the entire tax liability on the Petitioner, without involving the sellers, in cases where the tax has not been remitted by the sellers to Government?

Order passed by High Court:

Analysed the provision of Section 16 of the Central Goods and Services Tax Act, 2017 (**"CGST Act"**), and noted that the assessee must have received the goods and the tax charged in respect of its supply, must have been actually paid to the Government either in cash or through utilization of ITC, admissible in respect of the said supply. Therefore, if the tax had not reached the kitty of the Government, then the liability may have to be eventually borne by one party, either the seller or the buyer.

Case Laws

- Observed that, the respondent has not taken any recovery action against the seller. The omission on the part of seller to remit tax must be viewed very seriously and strict action ought to be taken against the sellers.

Noted that the Respondent took a stand that there was no movement of goods. Held that, if there was no movement of the goods, the examination of Sellers became more necessary and imperative. However, the Respondent did not ensure the presence of Sellers in the enquiry even when the Petitioners insisted on the same. Hence, the Impugned order suffers from certain fundamental flaws.

- Quashed the Impugned order due to non-examination of Sellers in the enquiry and non-initiation of recovery action against Sellers in the first place and remitted back the matter to the Respondent.
- Directed Respondent to hold the enquiry afresh where Sellers will have to be examined as witnesses and to initiate recovery action against Sellers.

➤ **RAMA Says-** This case law can stand as basis for many further litigations where the tax recovery is done from the purchaser instead of the seller. If the purchaser is honest taxpayer and has complied with law then recovery proceeding for the noncompliance on the part of seller shall not be initiated on the purchaser.

This case law further practically contradicts to the 36(4) where the purchaser cannot avail the ITC if the same is not available in the GSTR-2A. In many cases it has been observed that purchaser has made the entire payment to seller but since the seller has not filed the returns timely and correctly. The purchaser is getting impacted by non-availment of ITC.

GST Portal Updates

1. Generation of GSTR-2B for April & May 2021

Due to extension of due dates of GST Returns -GSTR1 and IFF for quarterly return filers, GSTR-2B for Apr-21 & May-21 will be generated after revised Due dates.

2. The Goods and Services Tax Network (GSTN) has enabled auto-population of Harmonized System of Nomenclature (HSN) description based on HSN code and has made it an un-editable field on the GST Portal. Also Rate (%) is required to be provided from now onwards in case of HSN summary.

Dashboard > Returns > GSTR-1/IFF > HSN Eng

HSN-wise summary of outward supplies

Note: Kindly click on save button after any modification(add, edit) to save the changes

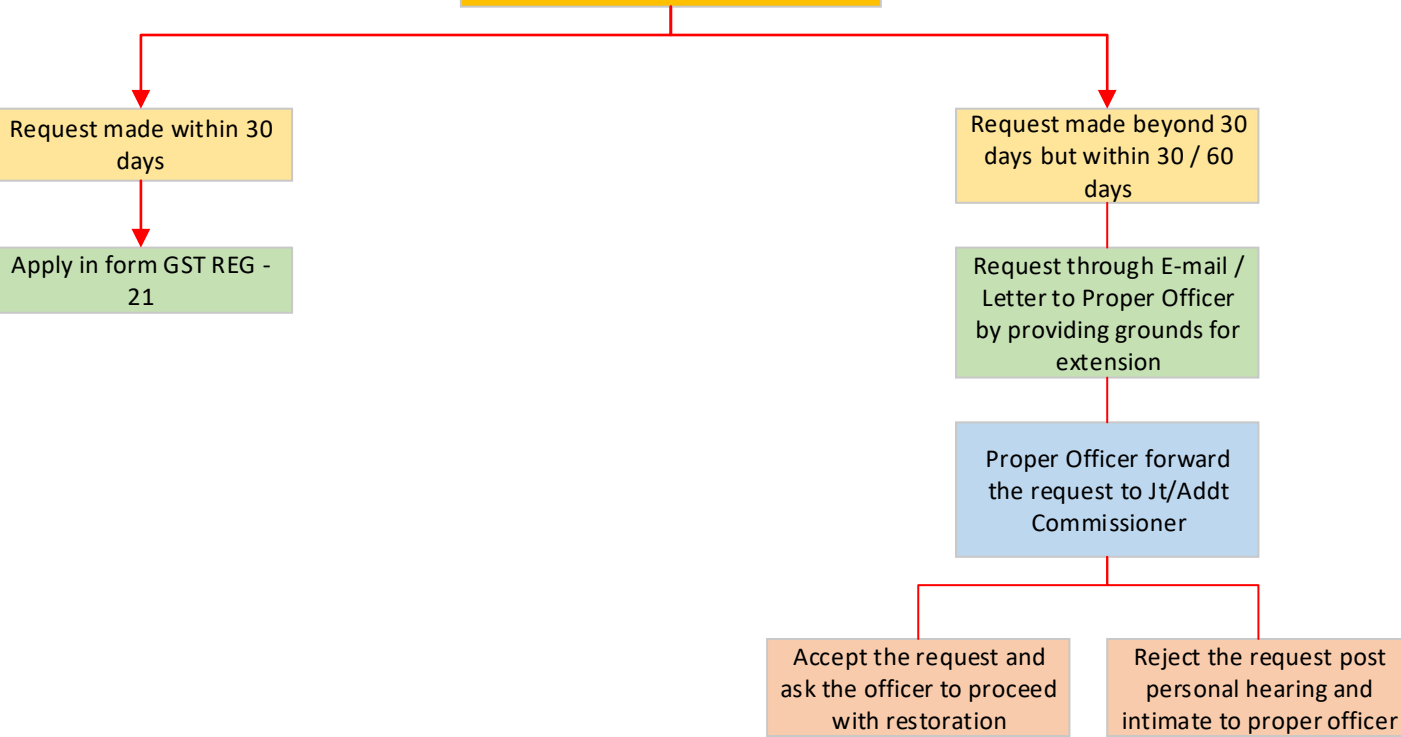
There are no invoices to be displayed.

Add/Edit Details

HSN *	Description *	UQC *
42050020 ✕	OTHER ARTICLES OF LEATHER OR OF COMP	Select ▼
Total Quantity *	Total Taxable Value (₹) *	Rate (%) *
<input type="text"/>	<input type="text"/>	Select ▼
Integrated tax (₹) *	Central tax (₹) *	State/UT tax (₹) *
<input type="text"/>	<input type="text"/>	<input type="text"/>
Cess (₹)		
<input type="text"/>		

Annexure A

Procedure for Restoration of Cancellation of Registration



RAMA, a boutique consulting firm having expertise in Risk & Business Advisory, Process & Systems (ERP) Consulting & Indirect Taxes across industries for corporates in India, UAE, USA, Africa & Europe.

RAMA is pool of Business, Process, Systems & Tax experts to provide comprehensive Risk, Assurance & Advisory services.

RAMA's IT arm is a **Microsoft Certified Partner** providing ERP Implementation & Consulting services.

THANK YOU!

 **Visit us at:** www.rama.co.in / www.ramaerp.in

Mumbai: Unit 512, A Wing, Express Zone,
Western Express Highway, VIT Bhatti, Malad
East, Mumbai- 400097
Contact: 022 4960 2734 / 022 4960 9734

Dubai: M-01, Bank Street Building,
Next to Citibank, Bur Dubai,
P.O. Box: 120349, Dubai, UAE.
Ph: +971 4 354 5186 / +971 4 352 9466