

GST GUIDE



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Notifications, Circulars and Amendments to Law/Rule

Notification / Orders	Date of Issue	Subject	Notification Highlights
Notification No.58/2020-CT	01-Jul-20	Seeks to make eighth amendment (2020) to CGST Rules	CBIC notifies GST Rule 67A which specifies Manner of furnishing of return or details of outward supplies (Form GSTR 3B & GSTR 1) by short messaging service (SMS) facility using the registered mobile number and the said return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility.
Notification No.59/2020-CT	13-Jul-20	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2019-2020	The due date for filing FORM GSTR-4 for FY 2019-20 extended to 31-Aug-20 which earlier was 15-Jul-20.
Notification No.60/2020-CT	30-Jul-20	Seeks to make Ninth amendment (2020) to CGST Rules	Ninth amendment to CGST Rules (2020) notified through the notification which provides the New E-Invoice format/schema version 1.1.
Notification No.61/2020-CT	30-Jul-20	Seeks to amend Notification no. 13/2020-Central Tax in order to amend the class of registered persons for the purpose of e-invoice	E-Invoicing applicability is enhanced to entities having turnover above Rs. 500 Crores (Earlier it was Rs. 100 Crores). E-Invoicing shall not be applicable to units located in Special Economic Zone (SEZ).

Advance Authority Rulings

Case 1 – Incomes to be considered in Aggregate Turnover for GST Registration (Anil Kumar Agrawal, Order- KAR ADRG 30/2020 dated 04-May-20, AAR-Karnataka)

Facts of the Case:

The Applicant is an unregistered person, who earned various revenue / income viz:

- Partner's salary from a partnership firm;
- Salary as a director of a private limited company;
- Interest income on the partners fixed / variable capital, loans / advances given, fixed deposits, debentures, post office deposits, etc;
- Rent on commercial and residential property;
- Dividend on shares, capital gain / loss on shares; and
- Receipt of maturity proceeds from life insurance policies.

Matter under Consideration:

For the purpose of calculating aggregate turnover as per section 2(6) of the CGST Act, 2017, which triggers the requirement of obtaining registration, which income / revenue are required to be considered?

Contention of the Applicant:

- Income received towards partner salary / salary as director are not includible in



aggregate turnover since salaries do not fall within the purview of GST, as they are treated neither as supply of goods nor supply of services.

- Income received towards renting of commercial property is to be included in the aggregate turnover as the said supply is treated as a taxable supply of service.
- Income received towards renting of residential property is also to be included in the aggregate turnover, although this is an exempt service.
- Income that is received from all other categories are not to be included in aggregate turnover as it does not fall under the purview of GST and hence does **not amount to supply under GST.**

Observations of the Authority:

As per section 2(6) of the CGST Act, 2017, "aggregate turnover" means sum of all taxable supplies, exempt supplies, export of goods or services and all inter-state supplies of the persons having the same PAN, to be computed on all India basis but excludes inward supplies

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on which tax is payable under reverse charge mechanism and also excludes central tax, State tax, Union territory tax and integrated tax and cess. As evident, the definition includes various supplies. Therefore, any income should be regarded as a supply in terms of section 7(1)(a) of the CGST Act, 2017 so as to be included in the aggregate turnover.

The interest income that is received from various sources are out of the deposits / loans extended by the Applicant. Interest income is exempted under sl. no. 27(a) of the exemption notification. Thus, the same shall be included in aggregate Turnover as it also includes exempt supplies.

Salaries received from Partnership firm / Company is not a supply in terms of clause 1 of Schedule III of the CGST Act, 2017. Further, even if the amount is received as a profit share, then also the said income is not covered under the purview of GST as share of profit is nothing but an application of money and hence not to be included as a part of aggregate turnover. Further if the Applicant provides services to the company as a Non- Executive director, then the remuneration that is received by the Applicant is liable to be taxed under reverse charge mechanism as per section 9(3) of the CGST Act, 2017 read with sl. no. 6 of the Notification 9 and such a value shall be included as a part of the aggregate turnover of the Applicant.

Rental income on commercial property constitutes a supply and is therefore to be included in the aggregate turnover. Likewise, rental income on residential property even though exempt will be included in aggregate Turnover as it includes exempt supplies.



The definition of 'goods' and 'services' under sections 2(52) and 2(102) of the CGST Act, 2017 respectively, exclude securities which is defined under section 2(101) of the CGST Act, 2017. Dividend on shares and capital gains / losses on sale of shares are relevant to shares (securities) and the income earned in this relation is nothing but application of money. Therefore, this income earned on shares being excluded from goods / services would also be excluded from aggregate turnover.

On maturity of the policy, there would not be any service involved between the policy holder and the insurance company. Therefore, the amounts received on maturity of an insurance policy are not to be included in the aggregate turnover

Ruling:

The following amounts should be added together in order to determine the aggregate turnover:

- Salary / remuneration as non-executive director of a company;
- Rental income from commercial and residential properties; and

Advance Authority Rulings

- Interest received on amounts extended as loans / advances / deposits.

RAMA Says:

The above ruling is not justified as per the intention of GST law. As per point 1 of schedule III, Services by an employee to employer in the course of or in relation to his employment shall be treated neither as supply of goods nor supply of services. Hence salary earned in the capacity of non-executive director (employee) of a company shall not be treated as supply. If no supply is made, it should not form part of Aggregate Turnover.

Interest received on amounts extended as loans / advances / deposits are earned are of personal nature and are not in the course or furtherance of business. Hence this should not form part of Aggregate Turnover.

Case Laws



Case 1 – No right to find a deficiency in RFD01 after 15 days of filing it held Delhi-HC (Jian International Vs. Commissioner of Delhi Goods and Services Tax)

Facts of the Case:

- ✓ The present writ petition has been filed seeking a direction to respondent to grant a refund of Rs.9,12,893/- claimed under Section 54 of the Delhi Goods and Services Tax Act, 2017 (hereinafter referred to as 'DGST Act') for the month of Aug-19 as well as the grant of an interest in accordance with Section 56 of DGST/CGST Act.

Learned counsel for the petitioner states that in accordance with Section 54(6) of DGST Act Read with rule 91(2) of Delhi Goods and Service tax Rules,2017 (For Short "DGST Rules") proper officer is required to refund at least 90% of the refund claimed on account of Zero-rated supply of goods or services or both made by registered persons within a period of seven days from the date of acknowledgment issued under sub-rule (1) or sub-rule (2) of Rule 90 of DGST Rules. He states that despite the period of fifteen days from the date of

filing of the refund application having expired on 19th November 2019, the respondent has to date neither pointed out any deficiency/discrepancy in FORM GST RFD-03 nor it has issued any acknowledgment in FORM GST RFD-02.

Observation by Delhi High Court:

Admittedly, to date, the petitioner's refund application dated 4-Nov-19 has not been processed. As neither any acknowledgment in FORM GST RFD-02 has been issued nor any deficiency memo has been issued in RFD-03 within the timeline of fifteen days, the refund application would be presumed to be complete in all respects in accordance with sub rule (2), (3) and (4) of Rule 89 of CGST/DGST Rules.

To allow the respondent to issue a deficiency memo today would amount to enabling the Respondent to process the refund application beyond the statutory timelines as provided under Rule 90 of the CGST Rules, referred above. This could then also be construed as a rejection of the petitioner's initial application for refund as the petitioner would thereafter have to file a fresh refund application after rectifying the alleged deficiencies. This would not only delay the petitioner's right to seek a refund but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules.

Moreover, the respondent's prayer to raise a deficiency memo is a hyper-technical plea as admittedly, all the relevant documents have been annexed with the present writ petition This Court directs the respondent to pay to the petitioner the refund along with interest in accordance with law within two weeks.

Case Laws

With the aforesaid directions, the present writ petition stands disposed of.

➤ **RAMA Says:**

This is indeed a welcome Judgement. It critically evaluates the refund provisions and dismisses revenue's plea for permitting the issue of deficiency memo belatedly. The Judgment would certainly go a long way in streamlining refund process and provide relief to Taxpayers.



No Return Overhaul; ITC Loopholes to be Plugged

The Goods And Service Tax Council is likely to shelve the plan announced last year to usher in a new format of tax returns and continue with the existing system, with some improvements and modification to plug loopholes.

A GoM, headed by Bihar Deputy Chief Minister Sushil Modi, met in first week of August and agreed on linking GSTR-1 (outward sales return) and GSTR-3B (monthly summary written) and introducing GSTR-2B document which will provide exact input tax credit details to the taxpayers, according to a source.

The group also decided to allow quarterly filing of GSTR-3b for taxpayers below rupees 5 crore turnover threshold, which could be introduced by November.

The relaxation for filing GSTR-1 returns once in a quarter is already available to small taxpayers.

The linking of two Returns GSTR-1 in GSTR-3B will eventually lead to auto population of GSTR-3B from GSTR-1. This would reduce the liability and ITC mismatch currently reported, and the functionality is expected to come online by the end of this month.

Further the GST networks will be deployed GSTR-2B this month, a document which would be auto populated with the details of ITC available to taxpayers. The data would be extracted from the gstr1 file by the counterparty suppliers of



particular taxpayers. This would ensure that the assessee knows the exact amount of credit to claim in GST-3B return.

Tax officials said GSTR-2B is also expected to help the department to effectively implement its policy of restricting credit availability to those taxpayers whose supplier fails to upload invoices for the purchasers otherwise claim by the assessee for availing ITC.

‘GST taxpayers have been using the current system of GSTR-3B and GSTR1 returns for 3 years now and so it was considered appropriate to continue with the same broad system instead of overhauling it with ‘Sahaj’ and ‘Sugam’ returns proposed earlier, the source said. Nandan Nilekani chairman of Infosys had proposed these returns to the GST council in July 2018. The GSTN for which Infosys is the designated it service provider released the format for these returns about a year later.

However, the source quoted above said as the development of this simplified returns

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progressed, it was felt by the GoM that the two-return format had become similar to gstr-1 2 and 3 system in complexity. These returns were deployed at the time of GST launch in Jul-17 but had to be junked with in the months for being cumbersome.

It was argued by the constituents of GoM that already deployed improvements in the existing system along with changes in the pipeline was a much less disruptive path to strengthen the return system. So far improvements like allowing Nil return filers (as much as 20% of the total GST taxpayer best of 1.2 crores) through SMS for monthly return enhancement of GSTR-2A (which provide details of purchases made by a taxpayer and can be cross reference with GSTR-1) have been deployed.

Along with other proposed improvements and introduction of investing for taxpayers above rupees 500 Crore turnover threshold from October 1 the return filing system is expected to be more efficient E-invoicing has been billed as a game-changer by the tax department as the system would bring about auto creation of returns in real time for all B2B business eventually.



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