



**SNR** & COMPANY  
CHARTERED  
ACCOUNTANTS



# **GST Bulletin**

## August 2022

## JUDICIAL UPDATES

### 1. *Interest component of EMI on loan availed against credit-card is not exempt:*

**Case of:** Ramesh Kumar Patodia vs Citi Bank NA and ors.

**Decision by:** High Court, Calcutta

- Assessee filed a writ petition challenging the IGST levy on the interest component of EMI of loan granted by Citi Bank against credit card & contended that, loan by the bank comes within the meaning of “supply”. However, interstate supply of services by way of extending loans for the consideration of payment of interest is exempted from IGST levy as per said Notification No. 9/2017 dated June 28, 2017.
- The court while addressing the first issue of maintainability on grounds that Citi Bank is not a nationalised bank, cited the SC dicta in Federal Bank Ltd, & held that since the assessee has prayed for a relief to compel the respondent Bank to grant exemption as per the Notification, “*the instant writ petition is maintainable*”.
- However, coming on to the merits, HC derived that said loan was not an offer to all intending borrowers but was restricted to a particular category of persons holding the Citi Bank Credit Card and same was accepted by the assessee. The court further highlighted that the expression “other than interest involved in credit card services” appearing under Sr. No. 28 of said Notification carve out an exception by excluding the interest on credit card services from the purview of exemption notification.”
- Hence, the court refused to accept the contention that services by way of extending loans by the bank in the instant case does not amount to credit card services.

**Read Full Ruling:** [Ramesh Kumar Patodia](#)

#### SNR's Take:

*The Hon'ble High Court has adjudicated upon a unique transaction wherein loan has been provided to the taxpayer but against the credit card. As such, the interest on such loan shall be treated as equivalent to interest charged on credit card dues which shall not be exempt. This judgement shall go a long way in resolving disputes in similar matters.*

## 2. Solid Waste Management for Municipalities through bio-mining process a 'Pure Service' & exempt:

**Case of:** Srinivas Waste Management Services Pvt. Ltd.

**Decision by:** AAR, Tamil Nadu

- The applicant entered into contracts with various city corporations & municipalities towards supply of pure services in relation to Solid Waste Management. The Contract pertains to removal of legacy waste through biomining process to reclaim the existing dump yard and reclamation of land, as also for micro composting done for Corporation for collection and removal of wet and bulk waste.
- The applicant claimed that the services so provided under the contracts are exempted under GST in terms of Sl. No. 3 of Notification No. 12/2017-CTR dated June 28, 2017.
- AAR stated that exemption entry is indeed applicable, being a function entrusted to a municipality under Article 243W of the Constitution. Further, it stated that the nature and scope of work in respect of the two contracts viz. 'Removal of legacy waste through Bio mining process to reclaim the existing dump yard' and 'Maintaining of Micro Compost Centers and processing wet waste affirmed that - (i) services of disposal of legacy waste and reclamation of land done by the applicant are 'Pure Services'.
- However, in respect of the Central Asphaltic Plant site in Design, Finance, Build, Operate and Transfer (DFBOT Model), AAR concluded that the contract entered into for the conversion of wet waste into Bio-CNG does not satisfy the criterion of being 'Pure Services' and consequently is ineligible for exemption.

**Read Full Ruling:** [Srinivas Waste Management Services Pvt. Ltd](#)

### SNR's Take:

*The AAR has rightly classified services of waste removal as entrusted to municipality & hence, exempt from GST. However, in respect of other services in DFBOT mode, the said exemption won't work i.e. GST would be applicable on them.*

### 3. *Service of conducting entrance exams for AIIMS being an 'educational institution', exempt:*

**Case of:** MEL Training and Assessment Ltd

**Decision by:** AAR Uttar Pradesh

- The applicant is engaged in the business of providing exam, certification and other allied services including various types of surveys, assessments and exam services to various clients including individuals, educational institutions, firms, corporate bodies, government undertakings etc.
- The applicant filed present application seeking clarification whether the services provided by the applicant can be considered as exempted under Entry 66 of Notification 12/2017-Central Tax (Rate).
- The AAR while noting the objective of AIIMS covered under section 13 of AIIMS Act, 1956, clarified that it qualifies to be an 'educational institution'.
- Further, citing the relevant entry at Sl. No. 66 (b) (iv) of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, it observed that services provided by the applicant to AIIMS by way of services relating to admission i.e. by way of entrance examination are exempt.
- However, service of examination for AIIMS rendered by applicant by way of - (a) Recruitment Examination for recruiting various persons within the organization and (b) Semester Examination/Course Examination, are not exempt from GST.

**Read Full Judgement:** [MEL Training and Assessment Ltd](#)

#### SNR's Take:

*AAR has rightly differentiated between the services provided for conduct of examination by educational institution for admission of students and for recruitment of staff. It has rightly held that service for admission of students is exempt while the service for recruitment of staff shall not be exempt.*

#### 4. Complete gamut of activities required for patient's well-being from admission till discharge a 'composite supply' of health-care service:

**Case of: Be Well Hospitals Pvt Ltd**

**Decision by: AAR, Tamil Nadu**

- The applicant runs a chain of multi-specialty hospitals & also has pharmacy units which has common GST registration supplying medicines to both in-patients and out-patients charging GST on MRP against all supplies provided.
- The Applicant stated that, it is undertaking composite supply of health-care services and intention of law is always to allow exemption on such service.
- On strength of Circular No. 32/06/2018-GST dated February 12, 2018, the Authority clarified that "supply of medicines and consumables to inpatients in the course of their treatment till the patient is discharged is a composite supply of health services. However, once the patient is discharged, the composite supply comes to an end and the review of the patient subsequent to discharge cannot be considered as part of the composite supply.
- As for applicability of Exemption Notification, the AAR categorically opined that exemption is applicable to a 'Clinical Establishment' when services by way of diagnosis or treatment or care for illness etc. are undertaken under Sl. No. 74 of Notification No. 12/2017-CTR dated June 28, 2017.
- However, for the category of out-patients, AAR denied the exemption on medicines and consumables supplied by pharmacy unit of the Applicant whilst outlining that a cash bill is raised for consultation and registration and pharmacy bill is raised separately.

**Read Full Judgement: [Be Well Hospitals Pvt Ltd](#)**

#### SNR's Take:

*The AAR has rightly demonstrated that consultation and supply of medicines are not naturally bundled in case of outpatients (OPD) and hence supply of healthcare along with medicines cannot be considered as 'composite supply' and are taxable as individual supplies.*

## CIRCULARS/ NOTIFICATIONS

### 1. CBIC issues notifications pursuant to recommendations made during GST Council's 47th meeting:

CBIC issues notifications to implement 47<sup>th</sup> GST Council recommendations: CBIC Notifications.

Sr. No.	Notification	Subject
1	09/2022-Central Tax dated July 5, 2022	Notifies July 5, 2022 as the effective date of sections 110 and 111 of the Finance Act, 2022. Section 110 amends section 49 of CGST Act relating to payment of tax, interest, penalty and other amounts, whereas section 111 amends section 50 dealing with interest on delayed refund.
2	10/2022-Central Tax dated July 5, 2022	Provides exemption from filing annual return to those whose turnover is up to Rs 2 crores in FY 2021-22.
3	11/2022-Central Tax dated July 5, 2022	Extends due date of furnishing FORM GST CMP-08 (containing the details of payment of self-assessed tax) for the quarter ending June, 2022 till July 31, 2022.
4	12/2022-Central Tax dated July 5, 2022	Extends the waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22 from June 30, 2022 to July 28, 2022.
5	13/2022-Central Tax dated July 5, 2022	Extend dates of specified compliances in exercise of powers u/s 168A such as (i) extend the time limit for issuance of order for recovery of tax not paid or short paid or of ITC wrongly availed w.r.t FY 2017-18 to September 30, 2023, (ii) excludes the period of March 1, 2020 to February 28, 2022 while calculating the limitation period regarding issuance of recovery order u/s 73(10), recovery of erroneous refund and filing refund application u/s 54 or section 55.
6	14/2022-Central Tax dated July 5, 2022	Amends CGST Rules, 2017 vide First Amendment, 2022 regarding revocation of registration suspension in Rule 21A, manner of determination of ITC in Rule 43, rules relating to tax invoice in Rule 46 etc.

Read Notification: [09/2022](#), [10/2022](#), [11/2012](#), [12/2022](#), [13/2022](#), [14/2022-CT](#)

## ***2. CBIC clarified on issue of claiming refund under inverted duty structure:***

CBIC clarifies that refund of accumulated ITC on account of inverted duty structure (IDS) would be allowed in cases where accumulation is on account of rate of tax on outward supply being less than rate of tax on inputs (same goods) at the same point of time, as per some concessional notification issued by Government.

It explained that the intent of Para 3.2 of [Circular No. 135/05/2020-GST](#) is not to cover those cases where supplier is making supply of same goods under a concessional notification and rate of tax of output is less than rate of tax on input and has accordingly modified Para 3.2 of said Circular

**Read Circular:** [173/05/2022-GST](#)

## ***3. CBIC issued clarification relating to demand and penalty provisions in fake invoicing scenario:***

CBIC issued clarification on various issues relating to applicability of demand and penalty provisions under CGST Act in respect of transactions involving fake invoices. It clarified that, issuance of just tax invoice without underlying supply of goods or services or both cannot be called 'supply' u/s 7 of the CGST Act and hence, no tax liability for the said transaction can be attributed against the registered person issuing the tax invoice; Accordingly, absence of 'supply' means no demand and recovery is required to be made under sections 73 & 74; However, even though no penal action is required to be taken u/ss 73 or 74 on the person issuing tax invoices without actual supply of goods or services or both, same is liable for penal action u/s 122

**Read Circular:** [171/03/2022-GST](#)

## ***4. CBIC issues clarification on correct/proper reporting of information of inter-state supplies, ineligible/blocked ITC and reversals:***

CBIC issued clarification on various issues so as to ensure uniformity and simplify return-filing process, upon noticing lack of clarity regarding reporting of information about ITC reversal as well as ineligible ITC in Table 4 of FORM GSTR-3B. It further noted existence of infirmities in information being furnished by registered person in relation to inter-state supplies effected to unregistered person, composition taxable persons u/s 10 of CGST Act, 2017 and UIN holders.

**Read Circular:** [170/02/2022-GST](#)

## 5. **CBIC issued clarification on manner of re-credit in electronic credit ledger using FORM GST PMT-03A:**

CBIC clarifies on categories of refunds where when refund is sanctioned erroneously, re-credit of amount in the electronic credit ledger (ECL) can be done using FORM GST PMT-03-A on deposit of such erroneous refund along with interest and penalty, wherever applicable, by the taxpayer.

**Read Circular:** [174/06/2022-GST](#)

## 6. **CBIC notifies rate changes pursuant to recommendations of 47th GST Council Meet:**

CBIC issues rate notifications pursuant to the deliberations at the [47th GST Council](#); These notifications shall come into effect from July 18, 2022.

<b>Sr. No.</b>	<b>Central Tax (Rate) Notification No. &amp; Date</b>	<b>Description</b>
1	03/2022-Central Tax (Rate) dated July 13, 2022	Seeks to amend Notification No 11/2017- Central Tax (Rate) dated 28.06.2017
2	04/2022-Central Tax (Rate) dated July 13, 2022	Seeks to amend Notification No 12/2017- Central Tax (Rate) dated 28.06.2017
3	05/2022-Central Tax (Rate) dated July 13, 2022	Seeks to amend Notification No 13/2017- Central Tax (Rate) dated 28.06.2017
4	06/2022-Central Tax (Rate) dated July 13, 2022	Seeks to amend notification No. 1/2017- Central Tax (Rate)
5	07/2022-Central Tax (Rate) dated July 13, 2022	Seeks to amend notification No. 2/2017- Central Tax (Rate)
6	08/2022-Central Tax (Rate)	Seeks to amend notification No. 3/2017- Central Tax (Rate)
7	09/2022-Central Tax (Rate)	Seeks to amend notification No. 5/2017- Central Tax (Rate)
8	10/2022-Central Tax (Rate)	Seeks to amend notification No. 2/2022- Central Tax (Rate)
9	11/2022-Central Tax (Rate) dated July 13, 2022	Rescinds notification No. 45/2017- Central Tax (Rate)

**Central Tax Notification No. & Date**

1	15/2022-Central Tax dated July 13, 2022	Seeks to amend notification No. 10/2019- Central Tax
2	16/2022-Central Tax dated July 13, 2022	Seeks to amend notification No. 14/2019- Central Tax

**Read Notification:** [3-11/ 2022-GST \(Rate\)](#), [15/2022-GST](#) & [16/2022](#)

## COMPLIANCE CALENDAR

Date	Particulars
10-08-2022	Due Date of filing GSTR-7 & 8 for the month of July 2022
11-08-2022	Due Date of filing GSTR-1 for the month of July 2022
13-08-2022	Due Date of filing GSTR-6 (ISD) for the month of July 2022
20-08-2022	Due Date of filing GSTR-3B for July 2022
20-08-2022	GSTR 5 (Non Resident Taxable person) and 5A (OIDAR service provider) for the month of July 2022
24-08-2022	Due Date of GSTR-3B for QRMP taxpayers

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