



GST BULLETIN

JULY 2023

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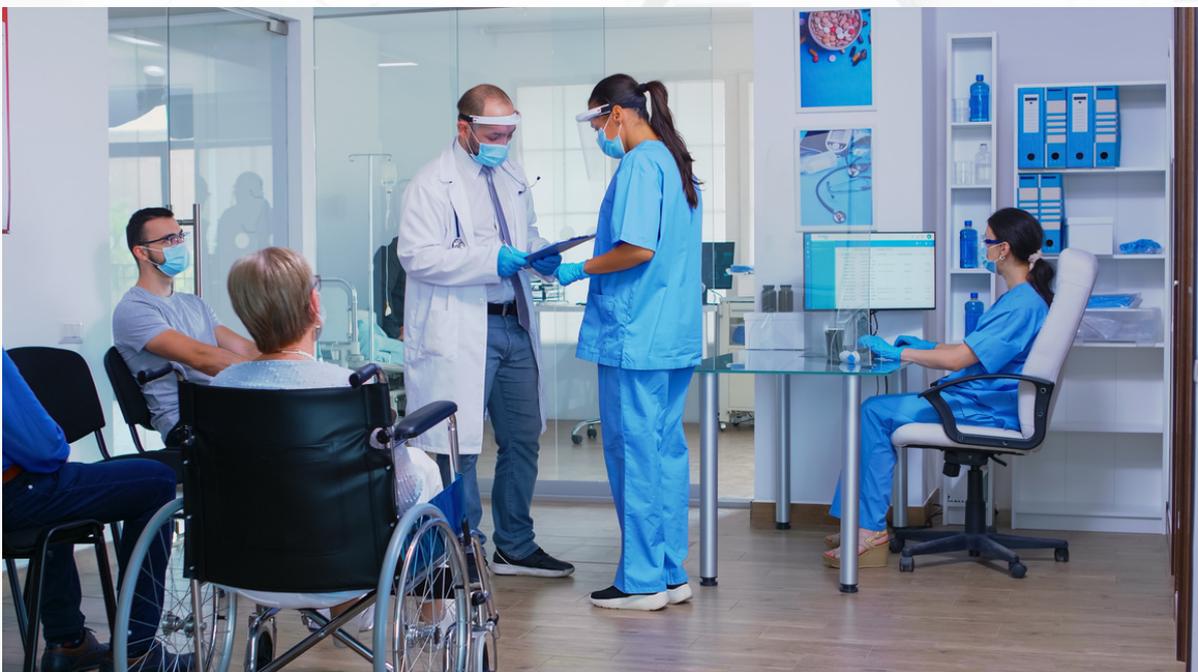
JUDICIAL UPDATES

1. Supply of goods & services to in-patients is 'Composite Supply', exempt as 'health care services'

Case of : In the matter of Innovations Mediresearch Pvt Ltd.

Decision by : Rajasthan Authority for Advance Ruling

Date of Judgement : 25th April 2023



- M/s Innovations Mediresearch Pvt Ltd engaged in providing health care facilities to patients. A unit of Innovation Mediresearch (Asian Cancer Hospital) provides treatment to patients suffering from cancer and is also involved in providing outpatient facility and after examination, patient is admitted where they are provided nursing care and medicines as prescribed by doctors and patients are treated as in-patient when they are admitted to the hospital.
- Applicant sought advance ruling with a query that whether supply of medicines and other services during the treatment of in-patients admitted to hospital amounts to 'Composite Supply' or not and also whether it is eligible for exemption under the category of 'health care services' falling under SAC 999311 being Principal Supply as per SI No. 74 of Notification no. 12/2017 dated June 28, 2017.

- AAR observed that, there is no dispute that, treatment of cancer patients by the Applicant is supply u/s 7 of CGST Act and falls under the ambit of health-care services falling under SAC 999311 as services by clinical establishment by authorized medical practitioner through a recognized system of medicine. Thus, treatment of cancer patients in hospital is a healthcare service, exempt under Notification no. 12/2017.
- AAR further added that supplies made in providing treatment to patients admitted to hospital are undoubtedly naturally bundled in ordinary course of business, where principal supply is health care service being predominant supply in the composite supply and other services such as room, medicine, consumables etc are ancillary to healthcare services.
- AAR also referred to CBIC Circular dated 01.04.2018, where it was clarified that room rent in hospital is exempted and also relied on further clarifications issued, where it was clarified that food supplied to inpatients as advised by doctors/nutritionists is a part of composite supply of healthcare and thus not separately taxable.
- Thus, AAR opined that, same principle should be applicable in case of dispensing of medicine to inpatients and relied on various other AARs ruling where it has been held that supply of medicines and allied goods or services provided by the hospital to the in-patients is part of composite supply of health care treatment and not separately taxable. Thus, no tax will be charged on medicines provided to in-patients by the hospital.

Full Judgement : [Innovations Mediresearch Pvt Ltd](#)

SNR's Take

Rajasthan AAR has reiterated the taxability of various supplies made by a hospital to in-patients who are admitted for medical treatment as stated by multiple AARs earlier. Any goods or services provided to in-patient is for the treatment or care for the illness, injury or deformity and thus shall be considered as part of Health Care Services only.

2. Recipient of supply cannot deny ITC on retrospective cancellation of Supplier's GSTIN

Case of : Gargo Traders

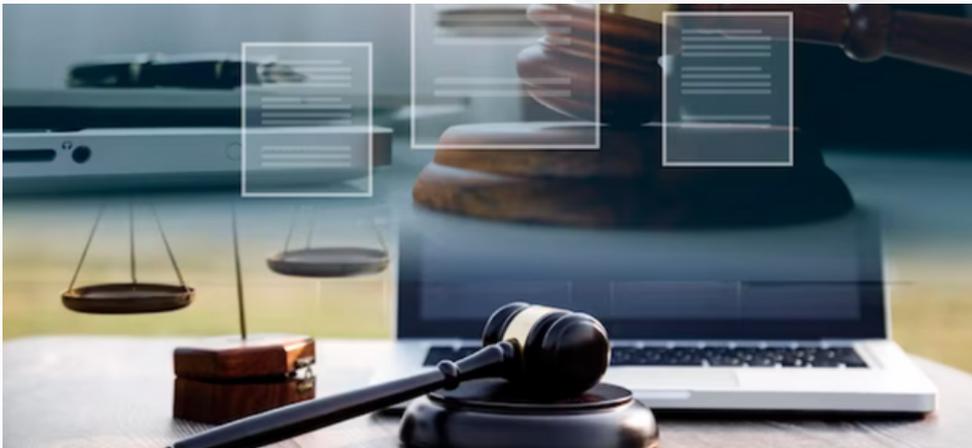
Decision by : Calcutta High Court

Date of Judgement : 12th June 2023



- Gargo traders (recipient) purchase goods worth Rs. 11,31,513 from Global Bitumen and payment for such purchase was made by recipient through bank account. Pursuant to the inquiry, the Tax Authorities observed that the Supplier from whom the Taxpayer had purchased goods is fake and the bank accounts open by the supplier was on the basis of fake documents and thus cancelled the Supplier's GST registration with retrospective effect. Consequently, the Tax Authorities sought to deny the recipient's claim of ITC on purchases from the Supplier and raised the demand with interest and penalty. Aggrieved by the above, the recipient filed a Writ Petition before the Hon'ble Calcutta High Court.
- Revenue contended that the Assessee had not verified the genuineness and identity of the supplier whether it is a registered taxable person or not before entering into any transaction with the supplier. Revenue further added that the registration of the supplier in question had already been cancelled with retrospective effect covering the transaction period of the Assessee.

- Recipient contended that at the time of procurement of goods, the Supplier was shown to be registered on the GST portal and recipient also furnished copies of various documents such as a tax invoice, debit note, e-Way Bill, transport invoice and bank statement. Such documents substantiated that the Taxpayer has purchased and received the aforesaid goods and consideration has been paid.
- Court observed that at the time of procurement of goods, the Supplier was registered as a taxable person under the GST law. Without proper verification, it cannot be deemed that there was any failure on the part of the recipient in compliance of any obligation required under the statute.
- Thus, HC directed Revenue to consider the grievance of the recipient afresh taking into consideration of the documents which the recipient intended to rely in support of his claim and dispose of the claim by passing a reasoned and speaking order after giving an opportunity of hearing to the recipient.



Full Judgement: [Gargo Traders](#)

SNR's Take

In the captioned decision, Hon'ble Calcutta High Court has once again come to the rescue of taxpayer by following its judgement in LGW Industries Limited. It has directed the department to verify the supporting documents submitted by taxpayer and then pass a reasoned and speaking order. Retrospective cancellation of GST registration of supplier cannot be a sole ground for denial of ITC in the hands of recipient specially in cases where the recipient has produced the documents demonstrating its compliance with obligations casted upon U/s 16(2) of GST Act.

3. Assessee cannot expect Revenue to carry out a 'Suo-Moto' proceeding without any cooperation from the Assessee.

Case of : M/s. Seoyon E-HWA Summit Automotive India Pvt. Ltd.

Decision by : Madras High Court

Date of Judgement : 23rd June 2023

- M/s. Seoyon E-HWA Summit Automotive India Pvt. Ltd. (Petitioner) was issued Show Cause Notice (SCN) and other Notices in Form ASMT-10 for discrepancies in GST returns and imposition of tax, interest, and penalty.
- Subsequently, the proceedings were initiated by the Tax Authorities. The assessee appeared before the Revenue and assured that they will submit all the relevant records by a specified date, however, failed to do so. Thus, the Authorities completed the assessment proceedings based on the information available to them and passed an order raising the demand.
- The petitioner filed an application for rectification of errors under Section 161 of the CGST Act, 2017 which was rejected on the ground that no information was given by the assessee to justify any error.
- Thereafter, petitioner filed a writ petition before High Court and contended that there could be no variations, since the returns filed by it in GSTR 3B contained its claim of ITC under several types, whereas the returns in Form GSTR 2A and GSTR 9, one filed by the supplier and the other auto-populated, contained details of ITC under only a few categories. He argued that the officer was in error in calling for the particulars and issuing notice



- It was contended that revenue can self-examine the particulars furnished in the returns and conclude the proceedings suo motto, without any need to supply any information.
- HC noted that despite being provided with sufficient opportunities prior to the finalization of assessment to justify its claim of ITC in GST returns, the petitioner has failed to cooperate with the revenue during any of the proceedings and therefore, the Proper Officer had no choice but to complete the assessment on the basis of the available materials and without any explanations for his benefit.
- HC held that Officer was correct in rejecting application under Section 161 since there was no material available on record that was supplied by the assessee that would point towards any error while passing order.
- HC held that as regards the Assessee's contention that the Revenue should have suo motto examined the particulars accompanying the returns without expecting the assessee to supply the same, it is unrealistic to expect the same from the revenue and it is not for an assessee who has not even made a solitary attempt to co-operate or assist the Tax Authorities in the assessment proceedings.

Full Judgement: [M/s. Seoyon E-HWA Summit Automotive India Pvt. Ltd.](#)

SNR's Take

High court has correctly upheld the rejection of rectification application under section 161 since the assessee did not cooperate during the assessment proceedings even after being provided various opportunities and thus, there was no material available with revenue on record that was supplied by the assessee that would point to any error.

4. Tax payer can claim refund from supplier for non-disclosure of supply in GST returns

Case of : Agrawal and Brothers

Decision by : Madhya Pradesh High Court

Date of Judgement : 13th June 2023



- M/s Agrawal and Brothers are engaged in the business of supplying and distributing iron and steel metal scraps and procured goods under e-auction from Divisional Railway Manager of the Western Railway (DRM) paid consideration of INR 51,97,142 including GST of INR 9,35,486 and claimed ITC of the same.
- Assessee noticed that the DRM had defaulted in reporting the aforesaid transaction in GSTR-1 and reported the transaction on wrong GSTIN due to which the consideration paid by the Assessee was not reflected in GSTR-2A.
- The GST department issued a notice demanding tax and interest from the Assessee. Assessee filed various representations before DRM but was not considered. Thus, to avoid cancellation of GSTIN due to non-payment of GST, the assessee paid the amount with interest and approached the MP High Court seeking a refund of the amount from the DRM.
- Railway department admitted that inadvertently they deposited the amount of GST in the wrong GSTIN and admitted that the Assessee has paid the consideration to the Railways including GST.

- The HC observed that the Assessee had already deposited the GST amount as well as interest to the GST department and it is an admitted mistake on the part of the DRM that the amount of GST was deposited in the wrong GSTIN, due to which the amount was not reflected in the GSTR-2A of the Assessee.
- HC further added, it is a settled law that no one can be made to suffer for the fault of another. Thus, assessee is entitled to seek a refund from DRM. HC directed the DRM to return the amount to the assessee and shall be at liberty to submit a claim for refund before the Tax Authorities in accordance with law.

Full Judgement: [Agrawal and Brothers](#)

SNR's Take

As stated by the High court that it is a settled law that one person cannot suffer due to the mistake made by another person. So, if supplier made a mistake/error in filing GST returns and as a result recipient has to pay tax amount along with interest to revenue then recipient has a right to claim such amount from supplier..

5. Inter-state movement of Demo car between distinct persons attracts GST

Case of : Kia Motors India Pvt Ltd

Decision by : Madhya Pradesh High Court

Date of Judgement : 01st May 2023

- Kia Motors (Petitioner) is engaged in the business of manufacturing and selling automobiles. It brought demo car in the state of Madhya Pradesh. Appellate Authority passed an order confirming the tax and penalty on transporting demo vehicles from one state to another between distinct person without E-way bill.
- Petitioner challenged the order passed by Appellate Authority before High Court through writ petition. It contended that the order of Appellate Authority was not valid as demo cars transported into the state of M.P. were not for sale and without consideration and thus, incidence of GST does not arise while revenue drew attention to Rule 138 read with section 129 reminding that for movement of goods exceeding the value of Rs.50,000, even if they do not qualify the definition of supply, still E-way bill is required to be generated.
- The High Court noted that, as per Rule 138 of the CGST Rules, causing of movement of goods exceeding the value INR 50,000/- even if the reason is not related to supply, makes it incumbent upon the supplier to inform about the movement of goods on the common portal and requires taxpayer to fill E-way bill document (i.e. Form-A GST, EWB-01) along-with necessary information. However, the petitioner has not provided information which is mandatory as per the CGST Rules.



- High Court held that transportation of demo vehicles from one state to another between distinct persons is exigible to GST. HC upheld levy of GST in case of Assessee on entry of demo car into State of Madhya Pradesh citing failure to furnish mandatory information required in Form-A GST, EWB-01 as per Rule 138.



Full Judgement: [Kia Motors India Pvt Ltd](#)

SNR's Take

HC judgement is in alignment with provisions of GST Act and rules made thereunder, which clearly states that even if movement of goods is not related to supply, then also assessee is required to generate e-way bill for same and also transfer of goods between distinct person is deemed as supply under GST law.

6. No ITC reversal on financial credit-note towards post sale discount

Case of : Vedumutha Electricals India Pvt Ltd

Decision by : Andhra Pradesh AAR

Date of Judgement : 26th May 2023

- M/s Vedmutha Electricals India Pvt Ltd (Applicant) is engaged in the business of supply of various electronic items. The applicant purchased electronic items from Gold Metal Electricals Pvt Ltd (supplier). Supplier issued tax invoice to applicant and paid the GST and filed GSTR 3B as per law.
- Applicant received variety of incentives from supplier in the nature of discount as after sale discounts. For such, after sale discounts supplier issued financial credit note to applicant without GST for accounting purpose only. The supplier did not reduce its output tax liability in respect of such financial credit notes since Section 15 of CGST Act, does not permit to exclude 'post sale discount' from transaction value.
- Applicant seeks advance ruling for whether applicant is required to reverse the ITC proportionately to the extent of financial credit note issued by supplier or not.
- Applicant contended that ITC shall not be reversed as ITC was claimed on such supply after complying with all the conditions mentioned in section 16 of CGST act and rules made thereunder.
- AAR clarified that such reversal is not required "provided the dealer pays the value of the supply as reduced after adjusting the amount of post sale discount in terms of financial/commercial credit notes received by him from the supplier of goods plus the amount of original tax charged by the supplier.



- AAR opined that applicant is eligible to take full credit of GST charged and is not required to reverse ITC to the extent of financial credit notes issued by the supplier as the amount received by the applicant is in the form of post supply discount and it will not affect transaction value between supplier and applicant.



Full Judgement: [Vedumutha Electricals India Pvt Ltd](#)

SNR's Take

AAR delivered a correct ruling in line with Tamil Nadu AAAR ruling in MRF Limited wherein it has been categorically stated that financial credit note is issued to give discounts which were not part of original contract of supply and thus, not allowed to be reduced from transaction value in terms of Section 15 of CGST Act, 2017. It is only a financial adjustment transaction not having any bearing on the Input Tax Credit claim of recipient.

CIRCULARS/NOTIFICATIONS:

1. Maharashtra Government introduced 'Settlement Act' for arrears of Taxes, interest or penalty for Pre-GST arrears.

To reduce the pending litigation and unlock the outstanding dues under the erstwhile Maharashtra Value Added Tax Act, Central Sales Tax Act, 1956 including other laws that were existing as on 30th June 2017 and are subsumed under the GST, Maharashtra government has introduced Settlement Act.

This Settlement Act shall be applicable for the settlement of arrears of tax, interest, penalty and late fee under the various Acts administered by the Department. Arrears of tax, interest, penalty or late fee under the following Acts and that pertains to the periods ending up to 30th June 2017 are eligible for settlement:

- The Central Sales Tax Act, 1956
- The Bombay Sales of Motor Spirit Taxation Act, 1958
- The Bombay Sales Tax Act, 1959
- The Maharashtra Purchase Tax on Sugarcane Act, 1962
- The Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975
- The Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985
- The Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987
- The Maharashtra Tax on Luxuries Act, 1987
- The Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989
- The Maharashtra Tax on Entry of Goods into Local Areas Act, 2002, and
- The Maharashtra Value Added Tax Act, 2002.

Arrears eligible for settlement shall be for the period ending upto 30th June 2017 and are:

- as per statutory orders that are passed at any time on or before the 30th April 2023, or the statutory orders that are passed during the operative period of the Settlement Act i.e. from 1st May 2023 till the 31st October 2023.
- As per the returns or the revised returns that are filed before the commencement of the Settlement Act or during the operative period of the Settlement Act i.e. from 1st May 2023 till the 31st October 2023 and where the tax or the interest has remained unpaid.
- Determined and recommended to be payable by the auditor, in the audit report submitted as per section 61 of the Value Added Tax Act, whether the notice under section 32 or 32A of the Value Added Tax Act has been issued or not.

All arrears as per statutory order stated above are eligible for settlement, irrespective of the fact that whether such arrears are disputed in appeal or not.

Refer: [Settlement Act](#)

2. CBIC extends due date for filing GSTR 3B for some districts of Gujarat

CBIC has extended the due date for filing of return in FORM GSTR-3B for the month of May 2023 for the persons registered in the districts of Kutch, Jamnagar, Morbi, Patan and Banaskantha in the State of Gujarat till June 30, 2023 and Notification shall come into force w.e.f. June 20, 2023.

3. CBIC extends due date for filing GSTR-1, GSTR-3B and GSTR-7 for Manipur

CBIC has extended due date for filing of return in FORM GSTR-1, GSTR-3B and GSTR-7 for the month of April and May 2023 for the persons having registered place of business in the state of Manipur till June 30, 2023 and Notification shall come into force w.e.f. May 31, 2023.



COMPLIANCE CALENDER:

DATE	PARTICULARS
10-07-2023	The due date for filing GSTR 7 for the month of June 2023.
10-07-2023	The due date for furnishing GSTR 8 for the month of June 2023 for registered e-commerce taxpayers in India.
11-07-2023	The last date to file the GSTR-1 for taxpayers having an annual aggregate turnover of more than INR 1.5 crore or the ones who have opted for the monthly return filing.
13-07-2023	The due date for filing of GSTR-1 for Quarterly filers (April 2023- June 2023)
13-07-2023	The due date for filing GSTR-6 for Input Service Distributor (ISD) of June 2023
20-07-2023	Due date for Form GSTR-3B for the month of June 2023.
24-07-2023	Due date for Form GSTR-3B for the month of June 2023 for quarterly filers of GSTR-1.

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