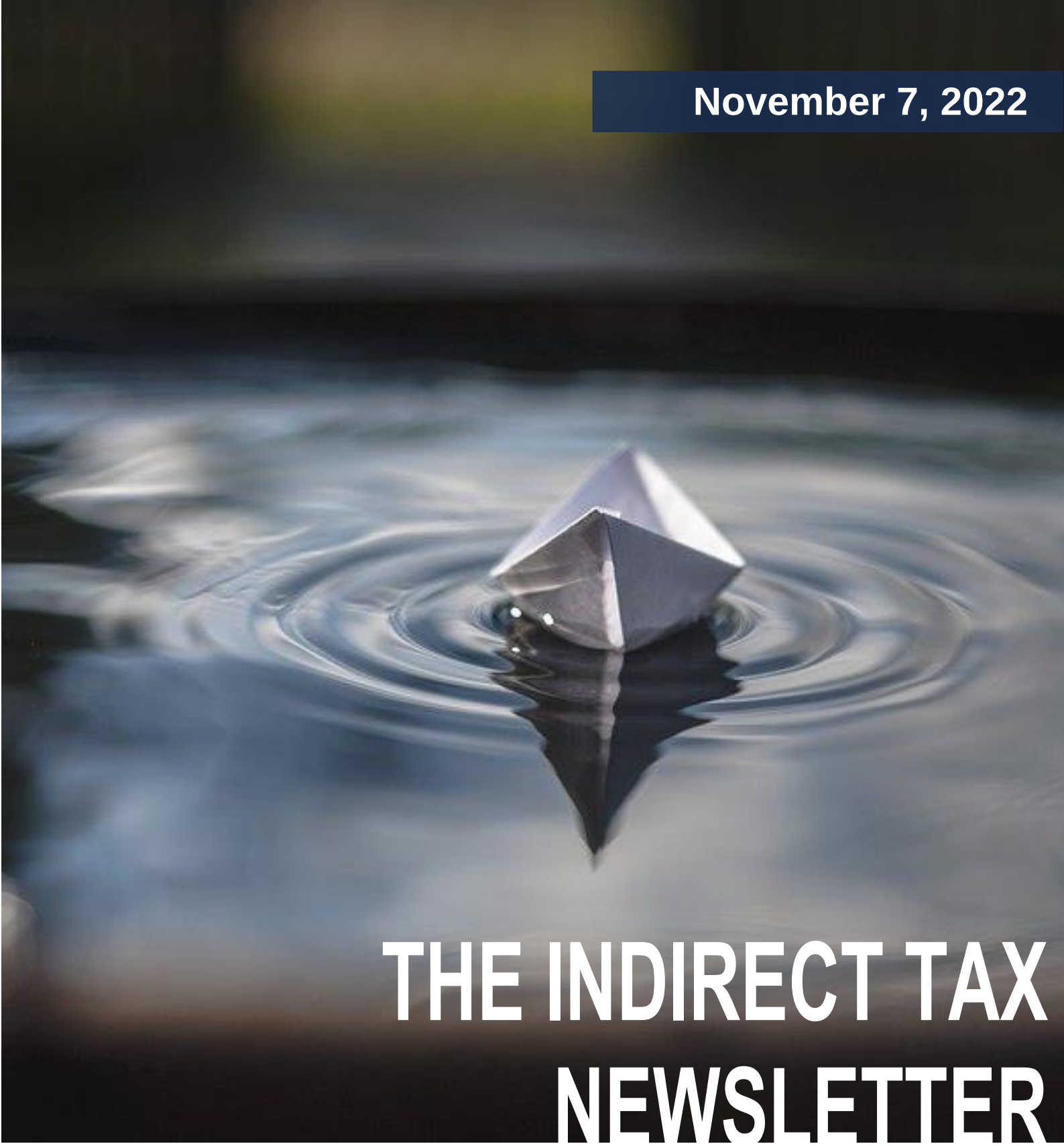
November 7, 2022



THE INDIRECT TAX NEWSLETTER

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Recent Case Laws

Goods and Services Tax (GST)

1. *Doctrine of promissory estoppel cannot operate against a Statute.*

Hero Motorcorp Limited v. *Union of India & Others* [Civil Appeal No. 7405/2022 (Hon'ble Supreme Court), decided on October 17, 2022].

Facts of the case:

(a) The Central Government had issued an Area-based exemption Notification, which *inter-alia* provided 100% duty exemption to the industrial units from payment of excise duty for 10 years from the date on which such industrial units commence their commercial production. In lieu of such exemption notification, the assessee established a new unit in 2008 and claimed exemption.

(b) After introduction of the GST Regime, the Central Government had withdrawn such exemption notification and introduced another notification (herein-after referred to as **"Budgetary support policy**") restricting the refund only to 58% of Central Goods and Services Tax (**"CGST"**) and 29% of Integrated Goods and Services Tax (**"IGST"**). Aggrieved by the same, the assessee filed the petition on the question of law whether doctrine of promissory estoppel could operate against a Statute or not.

Judgment:

(a) The Hon'ble Apex Court observed that the latest Notification withdrawing the exemption provided under the pre-GST regime was issued in terms of the power conferred under Section 174(2)(c) of the CGST Act, 2017 (**"CGST Act"**). It is a settled position of law that there can be no estoppel against the legislature in the exercise of its legislative functions. Hence, the provision of the earlier exemption granted to the assessee would be contrary to the legislative incorporation in Section 174(2)(c) of the CGST Act and will permit an estoppel to be operated against the legislative functions of the Parliament. As such, the claim on estoppel was inadmissible.

(b) It was further observed that when an exemption granted earlier was withdrawn by a subsequent notification based on a change in policy, the doctrine of promissory estoppel could not be invoked. Further, where the change of policy was in the larger public interest, the State cannot be prevented from withdrawing an incentive which it had granted through an earlier notification. Thus, even on the ground of change of policy, which was in public interest or in view of the change in the statutory regime itself on account of the GST Act being introduced, the earlier exemption notification benefit will not be maintainable.

(c) It was further held that GST Council is a constitutional body, which has powers to make recommendations on wide-ranging issues concerning GST. Therefore, taking into consideration that the units (assessees) have invested a substantial amount of capital in the North-eastern and Himalayan locations, States should consider to correspondingly reimburse such units out of the share of revenue received by them through devolution from the Central Government. The GST Council may thus consider making appropriate recommendations to the States. Further, the assessees were permitted to make representations to the respective State Governments as well as to the GST Council in this regard.

2. *The Hon'ble Supreme Court extends time limit of opening of GST portal to enable taxpayers to claim transitional credit.*

Union of India v. *Filco Trade Centre Private Limited* [Petition for Special Leave to Appeal (C) No(s). 32709/2018 (Hon'ble Supreme Court), decided on September 2, 2022].

Judgment:

Considering that various High Courts had allowed Writ Petitions filed by the registered assessees seeking a direction to avail TRAN-1 and TRAN-2 credit beyond the statutory time limit of December 27, 2017, the Hon'ble Apex Court had earlier directed the GSTN to open its portal for the taxpayers from September 1, 2022 to October 31, 2022 to claim transitional credit. On account of various difficulty faced, the said time limit for opening the portal has now been further extended for a period of four weeks. Therefore, the facility to file Forms TRAN-1 and TRAN-2 on the GST portal shall be allowed from October 1, 2022 to November 30, 2022.

3. *On belated payment of GST, interest is also leviable on the amount available in electronic cash ledger.*

India Yamaha Motor Private Limited v. *Assistant Commissioner, Chennai* [W.P.No. 19044/2019 (Hon'ble High Court of Madras), decided on August 29, 2022].

Facts of the case:

(a) The Petitioner had delayed in filing of its GST Returns for some months due to system errors in its accounting software. However, it duly maintained sufficient balance in both electronic cash ledger and electronic credit ledger. On account of such delay, the departmental authorities confirmed recovery of interest computed *inter-alia* on the tax paid through the electronic cash ledger by the Petitioner.

(b) Aggrieved against such demand, the Petitioner filed a Writ Petition before the Hon'ble High Court contending that no loss has been caused to the revenue in as much as the amount in the electronic cash ledger to the extent of GST liability was already maintained.

Judgment:

(a) The Hon'ble High Court held that in pursuance of Section 50 of the CGST Act, an assessee would be protected from the levy of interest only when a remittance to the Government was made by way of a debit entry from the cash ledger. Hence, mere availability of credit would not insulate the Petitioner from interest.

(b) It was further observed that there could be any number of situations where credit may be found to have been availed erroneously or on a mistaken interpretation of law. Thus, it would be risky to state a general proposition that the mere availability of electronic credit balance in the cash ledger would safeguard the Petitioner from the levy of interest.

(c) Therefore, it was held that unless an assessee files a return and debits the electronic cash ledger, the authorities cannot be expected to assume that available credits would be set-off against tax liability. Accordingly, the Hon'ble High Court dismissed the

petition and upheld the charge of interest on the balance tax liability in electronic cash ledger.

4. *Clarification by subsequent Circular substituting the earlier Circular issued would be applicable retrospectively from such earlier date.*

Micro Systems and Services Sole Proprietorship v. *Union of India* [Writ Petition No. 37465 of 2021 (Hon'ble High Court of Telangana), decided on September 5, 2022].

Facts of the case:

(a) The Petitioner was engaged in the business of assembling and supply of computers and computer parts and supplied such goods at a concessional rate of GST of 5% to Defence Research and Development Organisation. Thereafter, the Petitioner claimed refund of the input tax credit accumulated due to the inverted tax structure in terms of Section 54(3)(ii) of the CGST Act.

(b) The departmental authorities denied the refund by placing reliance on para 3.2 of the Circular No. 135/2020-GST dated March 31, 2020 issued by CBIC, which provides that the taxpayers cannot claim refund under Section 54(3)(ii) of the CGST Act in case input and output supplies are the same.

(c) In pursuance to the said Circular, another Circular No.173/05/2022-GST dated July 6, 2022 had been issued, which substituted Para 3.2 of the earlier Circular. It had been accordingly clarified that the earlier Circular did not intend to cover the cases where the rate of tax on output supply was less than the rate of tax on input supply (of the same goods) at the same point of time due to supply of goods by the supplier under such concessional notification.

(d) Aggrieved by the denial of refund by the Respondents, the Petitioner filed a petition before the Hon'ble High Court.

Judgment:

The Hon'ble High Court observed that in view of the Circular dated July 6, 2022 issued after the Board Circular dated March 31, 2020, the refund of accumulated input tax credit claimed in the instant case was admissible subject to fulfilment of other specified conditions. It was further held that the clarification vide the Circular dated July 6, 2022 would be the applicable from the date when the Circular dated March 31, 2020 come into effect. Consequently, the Hon'ble High Court remanded the matter for reconsideration in terms of the revised legal position.

5. *Pre-deposit under Section 107(6) of the Maharashtra Goods and Services Tax Act, 2017 (MGST Act) can be paid by utilization of credit available in Electronic Credit Ledger.*

Oasis Realty v. *Union of India* [Writ Petition No. 12287 of 2022 (Hon'ble High Court of Bombay), decided on September 16, 2022].

Facts of the case:

The issue in dispute pertains to the question whether the requirements under Section 107(6) of the MGST Act mandating payment of a sum equal to 10% of the "amount of Tax

in dispute" arising out of the impugned order, can be made by utilising the credit available in the Electronic Credit Ledger or not.

Judgment:

(a) The Hon'ble High Court observed that Section 107(6) provides the pre-condition - "unless the Appellant has **paid**" (not **deposited**) a sum equal to 10% of the amount of **tax** in dispute. Thus, the amount of input tax credit available in the Electronic Credit Ledger can be utilised towards payment of either Integrated Tax or Central Tax or State Tax or Union Territory Tax.

(b) Further, Section 49(4) of the MGST Act provides that the amount available in the Electronic Credit Ledger may be used for making any payment towards output tax under the MGST Act or IGST Act subject to certain restrictions or conditions that may be prescribed. Rule 86(2) of Maharashtra GST Rules, 2017 (**"MGST Rules"**) provides for debiting of the Electronic Credit Ledger to the extent of discharge of any liability in accordance with the provisions of Section 49 of the MGST Act. Therefore, any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the MGST Act can be made by utilisation of the amount available in the Electronic Credit Ledger. Hence, an assessee can pay 10% of the disputed Tax either using the amount available in the Electronic Cash Ledger or the amount available in the Electronic Credit Ledger.

(c) The earlier negative decision on the subject matter and reported in the case of ***M/s Jyoti Construction* v. *Deputy Commissioner of CT & GST 2021 (10) TMI 524*** would also not be applicable after issuance of clarification vide Circular F. No.CBIC-20001/2/2022-GST dated July 6, 2022, which provides that any amount towards output tax payable, as a consequence of any proceeding instituted under the provisions of GST Laws, can be paid by utilisation of the amount available in the Electronic Credit Ledger of a registered person. Accordingly, the Hon'ble High Court allowed the payment of tax in dispute by the amount available in the Electronic Credit Ledger.

Service Tax

6. *Services undertaken by the commission agents for sales promotion are included in the definition of the input services under Rule 2(l) of the CENVAT Credit Rules (CCR) with effect from April 1, 2011*

Principal Commissioner of Central Excise, Kolkata -IV v. *Himadri Special Chemical Limited* [CEXA No. 04 of 2022 (Hon'ble Calcutta High Court), decided on September 27, 2022]

Facts of the case:

(a) The assessee is engaged in the manufacture of coal pitch, Naphthalene, HC Oil and Carbon Black and similar preparations. It availed and utilized input credit of Service tax against the commission paid to various service providers who are acting as commission agents. The question in dispute relates to whether such credit is admissible thereto or not.

(b) The departmental authorities denied such credit on the basis of the decision in the case of ***CCE, Ahmedabad-II Versus Cadila Healthcare [2013 (30) STR 3 (Guj)*** wherein it has been held that services provided by selling agents are not eligible input

services. Aggrieved against such denial, the assessee filed an appeal before the CESTAT.

Judgment:

(a) The Hon'ble High Court held that the decisions of one other High Court in all cases will not bind another High Court and such decisions were held to be of persuasive value. In any event, in ***Cadila Health Care,*** no material was found on record to indicate that commission agents were involved in the activities of sales promotion. However, in the present case, the commission paid by the assessee to the stockist is included in the assessable value of the goods on which excise duty has been paid by the assessee.

(b) The Hon'ble Court also observed that, an amendment was made to the CCR by adding an explanation under Rule 2(l) vide notification dated February 3, 2016, which states that for the purpose of Clause 2(l), sales promotion includes services by way of sale of dutiable goods on commission basis. The said amendment was clarificatory and would be applicable retrospectively from April 1, 2011. Applying the aforesaid position of law, the Hon'ble High Court held that the benefit of credit on services of commission agent would be duly admissible to the assessee.

Customs

7. *Where the Bills-of-Entry stood assessed finally and no protest was expressed by the assessee at the time of import, no refund of the taxes paid earlier shall be admissible even after the Hon'ble Apex Court has set aside the liability on the subject matter for some other assessee.*

Shri Rajendra Textiles v. *Commissioner of Customs, Chennai* [Final Order No. 40323/2022 (Hon'ble CESTAT, Chennai), decided on September 22, 2022].

Facts of the case:

The assessee imported silk fabrics, on which liability of Countervailing duty (**"CVD"**) was disputed at that point of time, with multiple litigations pending before various higher judicial fora. While remitting the CVD plus Basic Customs Duty (**"BCD"**), the assessee did not mention that the remittance was made 'under protest'. Consequently, after the favourable order of the Hon'ble Apex Court in the case of *Commissioner of Customs (Port-Exports) v. M/s. Enterprises International Ltd. dated August 5, 2016*, a refund application was filed by the assessee. The said refund was denied on the ground that since the Bills-of-Entry stood assessed finally and that there was no protest expressed by the assessee at the time of import, the claim would not be admissible.

Judgment:

The Hon'ble CESTAT held that there was no dispute that after adjudication / assessment, the assessee had remitted the CVD plus BCD and the same was not under protest. Further, the adjudication / assessment of the Bills of Entry had reached finality in the year 2008 and since then, there was nothing available on record to suggest that the assessee had litigated directly or indirectly or that its litigation was pending before any of the authorities including CESTAT. There was also no whisper about intimating the Revenue about the pendency of any litigation before any fora. In view of the same, the assessee cannot be allowed to take advantage of the aforesaid judgment of the Hon'ble Supreme

Court, more so when ten years therefrom have passed. Consequently, the appeal was dismissed and the refund application was set aside by the Hon'ble CESTAT.

Central Excise, Sales Tax, VAT

8. *Welding Electrodes and D.A. Gas used in the cement manufacturing plant for the purpose of repair and maintenance of its plant and machinery is duly eligible for CENVAT Credit*

Messers Manikgarh Cement v. *Commissioner of Central Excise, Nagpur* [Final Order No. A/85915/2022 (Hon'ble CESTAT, Mumbai), decided on September 28, 2022].

Facts of the case:

The assessee is a manufacturer of Cement and Clinker. In the course of the grinding and heating process undertaken to manufacture the goods, components of coal mill as well as kiln and cement mills get damaged on account of abrasion. In order to repair the components, assessee had used Welding Electrodes and D.A. Gas and availed credit thereon. The said credit was denied by the department on the ground that such goods cannot be treated as inputs as they have no relationship with the manufacture of final products. Aggrieved by such denial, an appeal was filed before the CESTAT.

Judgment:

The Hon'ble CESTAT held that there is no denial of the fact that plant and machinery which were being used for manufacturing of final product were being kept in usable condition with periodic repair and maintenance, in which Welding Electrodes and D.A. Gas were being used. Hence, both the products are required, even though in an indirect way, for smooth process of manufacturing. Consequently, such goods will be covered within the definition of input provided under Rule 2(k)(i) of the CCR. Accordingly, the Hon'ble CESTAT held that the CENVAT Credit of the products in dispute was duly eligible to the assessee. Consequently, the appeal was allowed and the denial of credit was set aside.

Recent Notifications and Circulars

No.	Reference	Particulars
1.	Notification No. 21/2022-Central Tax dated October 21, 2022	Seeks to extend the due date for furnishing the return in FORM GSTR-3B for the month of September 2022 to October 21, 2022.
2.	Notification No. 18/2022-Central Tax dated September 28, 2022	Vide Finance Act, 2022 (**"the Finance Act"**), certain amendments were proposed under the provisions of the Central Goods and Services Tax Act, 2017. Some of these changes have been made effective from October 1, 2022 vide the said Notification, and are highlighted hereinbelow for ease of reference: (a) Extension of time limit upto November 30th of the subsequent financial year or date of annual return, whichever is earlier, in the following cases:

		- Availment of Input tax credit in respect of any invoice or debit note (Section 16(4) of the CGST Act) – Section 100 of the Finance Act - Issuance of credit note for a financial year (Section 34(2) of the CGST Act) – Section 102 of the Finance Act - Rectification of errors in respect of details of outward supplies furnished in Form GSTR -1 (Section 37(3) of the CGST Act) – Section 103 of the Finance Act - Rectification of errors in respect of return furnished in Form GSTR-3B (Section 39(9) of the CGST Act) – Section 105 of the Finance Act - Rectification of errors in respect of statement furnished by electronic commerce operator liable to collect tax at source (Section 52(6) of the CGST Act) – Section 112 of the Finance Act (b) Section 16(2)(ba) of the CGST Act has been made operational and provides that input tax credit can be availed only if it is not restricted in terms of Section 38 of the CGST Act –Section 100 of the Finance Act (c) Section 38 of the CGST Act is substituted and provides the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto generated statement. It seeks to do away with two-way communication process in return filing –Section 104 of the Finance Act. The auto-generated statement shall consist of: - Details of inward supplies of which credit may be available to recipient - Details of inward supplies of which credit cannot be availed (wholly or partially) by the recipient, based on the following supplies furnished by the supplier in Form GSTR-1: (i) Supplies made by a registered person after the prescribed period of registration (ii) In case of default in payment of tax by a registered person for such continuous period, as may be prescribed (iii) Where the output tax payable exceeds the output tax paid by the registered person, above the specified limit

		(iv) Where registered person has availed input tax credit in excess of credit available, above the specified limit (v) In case of default by a registered person in discharging tax liability in accordance with Section 49(12) of the CGST Act (vi) By such other class of persons, as may be prescribed.
3.	Notification No. 19/2022-Central Tax dated September 28, 2022	Seeks to amend the certain Rules under the Central Goods and Services Tax Rules, 2017, including Rule 21, 36, 37, 38, 42, 43, 60, 83, 85, 89 & 96 and FORM GST PCT-05. Seeks to omit of Rules 69, 70, 71, 72, 73, 74, 75, 76, 77 & 79 and FORM GSTR-1A, FORM GSTR-2 & FORM GSTR-3.
4.	Notification No. 20/2022-Central Tax dated September 28, 2022	Seeks to rescind Notification No.20/2018-Central Tax, dated March 28, 2018, which provided for refund of taxes paid on the notified supplies of goods or services or both received by specified persons, i.e., specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries etc.
5.	Circular F.No.757/Follow-up/GSTC/2018/8198 dated October 19, 2022	Seeks to clarify the following issues with respect to Authority regarding action consequential to issuance of Show Cause Notice (SCN) and for issuance of recurring SCN in case of an enforcement action initiated by the Central authorities against a taxpayer assigned to State and vice versa: (i) A taxpayer located within a State is open to enforcement action by both authorities. For example, an enforcement action against a taxpayer, assigned to State tax authorities, can be initiated by the Central tax authorities (and vice versa). In such cases, all the consequential action relating to the case including, but not limited to, appeal, review, adjudication, rectification, revision will lie with the authority which had initiated the enforcement action i.e., the Central tax authorities in the instant case. Refund in such cases may, however, be granted only by jurisdictional tax authority, administering the taxpayer. (ii) The recurring SCNs may be issued by the concerned jurisdictional tax authorities administering the taxpayer, i.e., even if investigation is conducted by Central tax authorities and initial SCN is issued by them, the recurring SCN may be issued only by the jurisdictional tax authority administering the taxpayer. For instance, if the jurisdictional tax authority is State tax, the recurring SCN may be issued by the concerned State tax authority and not the Central tax authority.

6.	Circular No. 180/12/2022-GST dated September 09, 2022	Seeks to provide guidelines for filing/revising TRAN-1/TRAN-2 in terms of the Hon'ble Supreme Court Order in the case of Union of India vs. Filco Trade Centre Pvt. Ltd. dated July 22, 2022 and September 2, 2022. Amongst others, it has been clarified that: - The applicant may file declaration in FORM GST TRAN-1/TRAN-2 or revise the earlier filed TRAN-1/TRAN-2 duly signed or verified through electronic verification code on the common portal. In cases where the applicant is filing a revised TRAN-1/TRAN-2, a facility for downloading the TRAN-1/TRAN-2 furnished earlier by him will be made available on the common portal. - The applicant shall at the time of filing or revising the declaration in FORM GST TRAN-1/TRAN-2, upload on the common portal the pdf copy of a declaration in the specified format. The applicant claiming credit in table 7A of FORM GST TRAN-1 on the basis of Credit Transfer Document (CTD) shall also upload the pdf copy of TRANS-3, containing the details in terms of the Notification No. 21/2017-CE (NT) dated June 30, 2017. - No claim for transitional credit shall be filed in table 5(b) & 5(c) of FORM GST TRAN-1 in respect of such C-Forms, F-Forms and H/I-Forms which have been issued after the due date prescribed for submitting the declaration in FORM GST TRAN-1 i.e., after December 27, 2017. - Where the applicant files a claim in FORM GST TRAN-2, he shall file the entire claim in one consolidated FORM GST TRAN-2, instead of filing the claim tax period wise as referred to in sub-clause (iii) of clause (b) of sub-rule (4) of Rule 117 of the Central Goods and Services Tax Rules, 2017. In such cases, in the column 'Tax Period' in FORM GST TRAN-2, the applicant shall mention the last month of the consolidated period for which the claim is being made. - The applicant shall download a copy of the TRAN-1/TRAN-2 filed on the common portal and submit a self-certified copy of the same, along with the specified declaration in Annexure 'A' and copy of TRANS-3, wherever applicable, to the jurisdictional tax officer within 7 days of filing of declaration in FORM TRAN-1/TRAN-2 on the common portal. The applicant shall keep all the requisite documents / records / returns / invoices, in support of his claim of transitional credit, ready for making the same available to the concerned tax officers for verification.

		- It is pertinent to mention that the option of filing or revising TRAN-1/TRAN-2 on the common portal during the period from October 1, 2022 to November 30, 2022 is a one-time opportunity for the applicant to either file the said forms, if not filed earlier, or to revise the forms earlier filed. The applicant is required to take utmost care and precaution while filing or revising TRAN-1/TRAN-2 and thoroughly check the details before filing his claim on the common portal. - It is also clarified that the applicant can edit the details in FORM TRAN-1/ TRAN-2 on the common portal only before clicking the "Submit" button on the portal. The applicant is allowed to modify/edit, add or delete any record in any of the table of the said forms before clicking the 'Submit' button. Once "Submit" button is clicked, the form gets frozen, and no further editing of details is allowed. This frozen form would then be required to be filed on the portal using "File" button, with Digital signature certificate (DSC) or an EVC. The applicant shall, therefore, ensure the correctness of all the details in FORM TRAN-1/ TRAN-2 before clicking the "Submit" button. GSTN will issue a detailed advisory in this regard and the applicant may keep the same in consideration while filing the said forms on the portal. - It is further clarified that pursuant to the order of the Hon'ble Apex Court, once the applicant files TRAN-1/TRAN-2 or revises the said forms filed earlier on the common portal, no further opportunity to again file or revise TRAN-1/TRAN-2, either during this period or subsequently, will be available to him. - It is clarified that those registered persons, who had successfully filed TRAN-1/TRAN-2 earlier, and who do not require to make any revision in the same, are not required to file/ revise TRAN-1/TRAN-2 during this period from October 1, 2022 to November 30, 2022. In this context, it may further be noted that in such cases where the credit availed by the registered person on the basis of FORM GST TRAN-1/TRAN-2 filed earlier, has either wholly or partly been rejected by the proper officer, the appropriate remedy in such cases is to prefer an appeal against the said order or to pursue alternative remedies available as per law. Where the adjudication/ appeal proceeding in such cases is pending, the appropriate course would be to pursue the said adjudication/ appeal. In such cases, filing a fresh declaration in FORM GST TRAN-1/TRAN-2, pursuant to the special dispensation being provided vide this circular, is not the appropriate course of action.

		- The declaration in FORM GST TRAN-1/TRAN-2 filed/revised by the applicant will be subjected to necessary verification by the concerned tax officers. The applicant may be required to produce the requisite documents/ records/ returns/ invoices in support of their claim of transitional credit before the concerned tax officers for verification of their claim. After the verification of the claim, the jurisdictional tax officer will pass an appropriate order thereon on merits after granting appropriate reasonable opportunity of being heard to the applicant. The transitional credit allowed as per the order passed by the jurisdictional tax officer will be reflected in the Electronic Credit Ledger of the applicant on the common portal.
7.	Instruction No. CBIC-240137/14/2022-Service Tax Section -CBEC dated October 28, 2022	Seeks to clarify that payments through Form DRC-03 under the GST regime is not a valid mode of payment for making pre-deposits under Section 35F of the Central Excise Act, 1944 and Section 83 of Finance Act, 1994. It has been specified that such payment of pre-deposit would be made via the dedicated CBIC-GST Integrated portal, https://cbic-gst.gov.in {Board's Circular No. 1070/3/2019-CX dated 24th June, 2019 refers in this regard}.
8.	Instruction No. 04/2022-23 (Investigation) dated September 1, 2022	Seeks to provide guidelines for launching of prosecutions under the CGST Act. A summary thereof is provided herein-below: - One of the important considerations for deciding whether prosecution should be launched is the availability of adequate evidence. The standard of proof required in a criminal prosecution is higher than adjudication proceeding as the case has to be established beyond reasonable doubt. Therefore, even cases where demand is confirmed in adjudication proceedings, evidence collected should be weighed so as to likely meet the above criteria for recommending prosecution. Decision should be taken on case-to-case basis considering various factors, such as, nature and gravity of offence, quantum of tax evaded, or Input tax credit wrongly availed, or refund wrongly taken and the nature as well as quality of evidence collected. - In the case of public limited companies, prosecution should not be launched indiscriminately against all the Directors of the company but should be restricted to only persons who oversaw day-to-day operations of the company and have taken active part in committing the tax evasion etc. or had connived at it. - Decision on prosecution should normally be taken immediately on completion of the adjudication proceedings, except in cases of arrest where

		prosecution should be filed as early as possible. However, where offence involved is grave, or qualitative evidence is available, or it is apprehended that the concerned person may delay completion of adjudication proceedings, or any offender is arrested under Section 69 of the CGST Act, prosecution complaint may be filed even before issuance of the Show Cause Notice. - Prosecution should normally be launched where amount of tax evasion, or misuse of Input tax credit, or fraudulently obtained refund in relation to offences specified under Section 132(1) of the CGST Act is more than Rs. 5 Crore. However, in case of habitual offenders or arrest cases, the said monetary limit is not applicable. - The prosecution complaint for prosecuting a person should be filed only after obtaining the sanction of the Pr. Commissioner/Commissioner of CGST. In respect of cases investigated by Directorate General of GST Intelligence (**DGGI**), the prosecution complaint for prosecuting a person should be filed only after obtaining the sanction of Pr. Additional Director General/Additional Director General, DGGI of the concerned zonal unit/ Headquarters. - The procedure for sanction of prosecution, appeal against court order in case of inadequate punishment/acquittal, withdrawal of prosecution, Inspection of prosecution work by the Directorate General of Performance Management etc. has also been provided. - The provisions regarding compounding of offence in terms of Section 138 of the CGST Act should be brought to the notice of person being prosecuted and such person be given an offer of compounding by Pr. Commissioner/ Commissioner or Pr. Additional Director General/Additional Director General of DGGI, as the case may be. - All cases where sanction for prosecution is accorded after the issue of these instructions, it shall be dealt in accordance with the provisions of these instructions irrespective of the date of the offence. Cases where prosecution has been sanctioned but no complaint has been filed before the magistrate shall also be reviewed by the prosecution sanctioning authority considering the provisions of these instructions.
9.	Notification No.79/2022 Customs (N.T.)	Seeks to extend the timeline for issuance of e-scrip under the Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP) or the Scheme for Rebate of State and

	dated September 15, 2022	Central Taxes and Levies (RoSCTL) to two years instead of one year as specified earlier.
10.	Circular No. 18/2022-Customs dated September 10, 2022	Seeks to provide clarifications in respect of various aspects of the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 notified vide Notification 74/2022 dated 9th September, 2022
11.	Circular No. 20/2022-Customs dated September 22, 2022	Seeks to provide clarification on classification of goods that undertake lifting and handling functions and have mobility as a function.
12.	Notification No. 37/2015-20 dated September 29, 2022	Seeks to provide that the existing Foreign Trade Policy 2015-2020 which is valid up to September 30, 2022, will be extended upto March 31, 2023.
13.	Public Notice No. 27/2015-2020 dated September 29, 2022	Seeks to provide that the last date for filing of annual returns under Para 5.15 of HBP 2015-20, which deals with Export Promotion Capital Goods Scheme, has been extended till December 31, 2022.

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