

Thinking Beyond

The Academy's Monthly Newsletter



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December 2023**



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GST implications- Reimbursed Electricity charges

In recent times, there has been spate of notices issued by GST dept demanding GST with interest penalty on the reimbursement of electricity charges, collected by the landlords of commercial buildings as well as by building facility /maintenance service providers. These shocking demands are being issued even when the charges are recovered at actuals based on metered reading, alleging it to be service supplied to tenant.



CA Roopa Nayak

It is good to recall at this juncture that electrical energy has been identified as goods in Customs Tariff Heading 2716 0000 in the schedule to the Customs Tariff Act, exempted from GST under HSN 2716 00 00 [NN 02/2017-CT entry no 104]. It may also be noted that in the case of usage of electricity, it is regarded as the goods.

[Read More](#)

Legal Updates – November 2023

1. RCM demand on secondment of employees – manpower services or not?
2. Can GST registration be cancelled for filing only nil returns for more than 6 months
3. Where goods in transit were found to be different than that mentioned in accompanying document
4. Parallel proceedings by Central and State Authorities unacceptable
5. Search and Seizure of Cash unlawful
6. Failure to obtain endorsement within 45 days for goods supplied to SEZ due to the default of the AO
7. ITC refund sanction order signed and cleared by unauthorised officer
8. GST council can recommend rate but cannot determine classification
9. IDS: HC allows ITC refund in case of multiple inputs and output supplies
10. Amendment to Rule 89(4)(c) of CGST Rules, restricting refund by capping ‘export turnover’, not applicable retrospectively.

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Sl. No	Date	Functionality	Particulars
1	01.12.2023	Advisory: 2 Factor Authentication for Taxpayers	<p>The 2 Factor Authentication to strengthen the login security in the GST portal has been done in the state of Haryana and it will be rolled out in the states of Punjab, Chandigarh, Uttarakhand, Rajasthan, and Delhi in 1st phase from 1st December 2023. It is planned to be rolled out in all states in India.</p> <p>Taxpayers will be requested to provide a one-time password (OTP) post entering the user ID and password, the OTP will be delivered to their Primary Authorized Signatory “Mobile number and e-mail ID”.</p> <p>Taxpayers are requested to keep their email and mobile numbers of authorized signatories to be updated in the GST Portal for receiving the OTP communication. This OTP will be asked in case the taxpayer changes the system (desktop or laptop or browser) and location.</p>
2	01.12.2023	Advisory: Online Compliance Pertaining to ITC mismatch – GST DRC – 01C	<p>It is informed that GSTN has developed a functionality to generate automated intimation in Form GST DRC-01C which enables the taxpayer to explain the difference in Input tax credit available in the GSTR-2B statement & ITC claimed in GSTR-3B return online as directed by the GST Council. This feature is now live on the GST portal.</p>
3	29.12.2023	Advisory: Date extension for reporting opening balance for ITC reversal	<p>Last date to report the opening balance of Electronic Credit Reversal and Re-claimed Statement is extended till 31st January 2024 and the same can be amended 3 times up to 29th February 2024.</p>

GST	
Notifications-Central Tax	
Instruction No. and Date of issue	Subject
55/2023-Central Tax, Dated 20-12-2023	<p>Extension of due date for filing of return in FORM GSTR-3B for the month of November, 2023 for the persons registered in certain districts of Tamil Nadu.</p> <p><u>Summary:</u> Through the notification no. 27/2022-CT, Govt. extended the due date for furnishing the return in FORM GSTR-3B for the month of November 2023 till the 27th day of December 2023, for the registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu and Kancheepuram in the state of Tamil Nadu. Read more</p>
56/2023-Central Tax, Dated 22-12-2023	<p>Seeks to extend dates of specified compliances in exercise of powers under section 168A of CGST Act</p> <p><u>Summary:</u> In the exercise of powers conferred in section 168A of the CGST Act, 2017, the time limit specified under section 73(10) for issuance of orders under section 73(9) of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the period is extended as specified below, namely:</p> <ul style="list-style-type: none"> • for the financial year 2018-19, up to the 30th day of April 2024; • for the financial year 2019-20, up to the 31st day of August 2024. <p>Read more</p>

GST

Instructions/Guidelines

Instruction No. and Date of issue	Subject
<p>05/2023-GST, Dated 13-12-2023</p>	<p>Judgment of the Honourable Supreme Court in the case of Northern Operating Systems Private Limited (NOS).</p> <p><u>Summary:</u></p> <p>Important points of this Instruction are provided as below,</p> <ul style="list-style-type: none"> • Supreme Court in the case of Commissioner of Central Excise, Mumbai Versus M/s Fiat India(P) Ltd in Civil Appeal 1648-49 of 2004 has given the following observation- “66..... Each case depends on its facts and a close similarity between one case, and another is not enough because either single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.” • There may be multiple types of arrangements in relation to the secondment of employees of overseas group company in the Indian entity. In each arrangement, the tax implications may be different, depending upon the specific nature of the contract and other terms and conditions attached to it. Therefore, the decision of the Hon’ble Supreme Court in the NOS judgment should not be applied mechanically in all the cases. Investigation in each case requires a careful consideration of its distinct factual matrix, including the terms of contract between overseas company and Indian entity, to determine taxability or its extent under GST and applicability of the principles laid down by the Hon’ble Supreme Court’s judgment in NOS case. • Section 74(1) can be invoked only in cases where there is fraud or wilful misstatement or suppression of facts to evade tax on the part of the said taxpayer. Section 74(1) cannot be invoked merely on account of non-payment of GST, without a specific element of fraud or wilful misstatement or suppression of facts to evade tax. Read more

Customs- Tariff	
Notifications	
Notification No. and Date of issue	Subject
64/2023-Customs Dated- 07-12-2023	<p>Seeks to exempt imports of Yellow Peas [HS 0713 10 10] from applicable BCD and AIDC up to 31.03.2024</p> <p>Summary: - The Govt. has exempted whole of Custom Duty and the Agriculture Infrastructure and Development Cess on Yellow Peas when imported into India. The exemption period would be from 8th December 2023 up to 31st March 2024. Read more</p>
65/2023-Customs Dated- 21-12-2023	<p>Seeks to amend notification No. 49/2021 - Customs, dated 13.10.2021, in order to extend nil Agriculture Infrastructure and Development Cess [AIDC] on Lentils (Mosur) up to and inclusive of the 31st March, 2025.</p> <p>Summary: - The CBIC vide this notification extends exemption for Lentils (Mosur) till March 2025 from March 2024. Read more</p>
66/2023-Customs Dated- 22-12-2023	<p>Seeks to further amend No. 22/2022-Customs, dated the 30th April, 2022 to enable gold imports by valid TRQ holders under India UAE CEPA</p> <p>Summary: - The CBIC vide this notification amending Notification No. 22/2022-Customs. This amendment specifically pertains to facilitating gold imports under the India-UAE Comprehensive Economic Partnership Agreement (CEPA) by valid Tariff Rate Quota (TRQ) holders.</p> <p>Read more</p>
67/2023-Customs Dated- 29-12-2023	<p>Seeks to amend Notification No. 96/2008 Customs dated 13.08.2008</p> <p>Summary: - The CBIC vide this notification amending the Customs Act of 1962 (“the Customs Act”). The amendment adds the Democratic Republic of Congo as a new entry at serial number 38 in the Schedule (origin of the country listed to claim exemption as provided) of the previous Notification No. 96/2008-Customs, dated August 13, 2008. Read more</p>
68/2023-Customs Dated- 29-12-2023	<p>Seeks to give effect to 3rd Tranche of Tariff Concession under India Australia ECTA</p> <p>Summary: - The CBIC vide this notification amending the Customs Act of 1962 (“the Customs Act”). This amendment brings substantial changes, superseding the earlier notification No. 62/2022-Customs issued on 26th December 2022. Read more</p>

Customs- Tariff

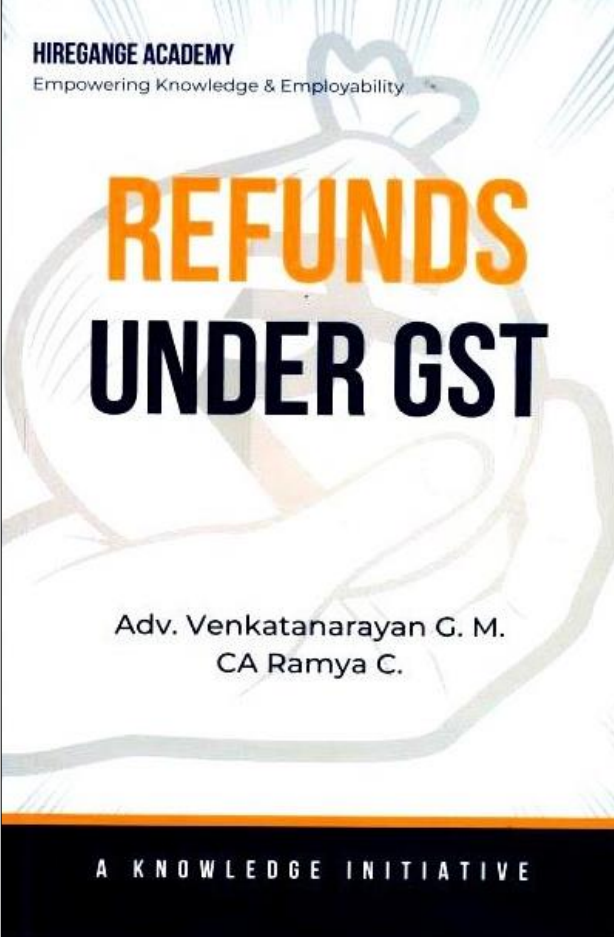
Instruction

Instruction No. and Date of issue	Subject
29/2023-Customs Dated- 12-12-2023	Veterinary Health Certificate for Import of Milk and Milk Products into India -reg. Read more
28/2023-Customs Dated- 12-12-2023	Requirement of BIS registration for import goods notified under the Electronic and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012 and random sampling of LED products and control Gear for LED. Read more

REFUNDS UNDER GST – Adv. Venkatanarayan GM & CA Ramya C

If you would like to procure it for yourself, or for your team at work, please fill this google form given below.

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HIREGANGE ACADEMY
Empowering Knowledge & Employability

REFUNDS UNDER GST

Adv. Venkatanarayan G. M.
CA Ramya C.

**REFUNDS
UNDER GST**

FIRST
EDITION
SEPTEMBER 2023

ABOUT THE BOOKLET:

Refunds is a crucial aspect under GST and is also one of the most contentious topics under taxation law. After the introduction of GST, the provisions of refund have been amended multiple times and various circulars have been issued by the CBIC. Thus, it is important to understand the various aspects of refunds and the chronology of changes in law with respect to the same.

This booklet aims to bring to light all significant concepts under the provisions of Refund in GST, including various technical & practical issues faced while applying refund applications for the benefit of the trade & industry. Also included are relevant case laws and jurisprudence which could aid in litigation.

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A KNOWLEDGE INITIATIVE

Congratulations CA Mahadev R and CA Akshay M Hiregange



CA Mahadev R and **CA Akshay M Hiregnage** invited by Bangalore ICAI branch as speakers and deliberated on the topics Cost control & tax planning under GST and Handling automated notices of GSTR 1 & 3B respectively.

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