

Thinking Beyond

The Academy's Monthly Newsletter

A knowledge sharing initiative

August 2023



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Striking a Balance between Game of Skill, Game of Chance, and Game of GST

It is essential to adopt a balanced approach that considers the industry's long-term well-being and growth while ensuring fair taxation practices. The recent imposition of a 28% GST rate on the entire value of gaming, horse racing, and casinos has been seen as a disadvantage for online gaming companies. The online gaming industry in India has witnessed impressive growth in past years, leading to significant foreign investment, making it one of India's fastest-growing sectors.



CA Yash Shah

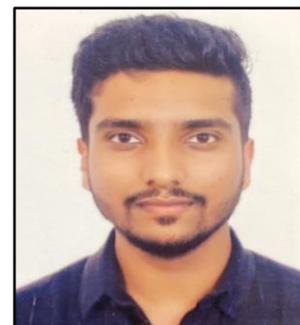
However, the recent decision by the GST Council to impose a 28% GST rate on the full-face value of gaming transactions is expected to have extensive consequences. The immediate and visible impact of this 28% GST implementation on online gaming will be seen in the total prize pools and the face value of games. [Read More](#)

Does Rule 96A of CGST Rules Override the Act? - Analysing the Validity

India's tax law reforms, particularly the implementation of the GST, have played a significant role in promoting exports and supporting export-oriented industries. Under the GST framework, exports are considered "zero-rated supplies," eliminating the GST on exported goods or services. This reduces the tax burden on exporters and improves their competitiveness globally. Exporters can also claim input tax credits, resulting in enhancing cost efficiency.



CA Akbar Basha



CA Uttej Kondaveethi

By aligning tax laws with export promotion objectives, India has created a favorable environment for businesses to excel in the global market. These reforms, combined with other supportive measures, are expected to boost India's exports, generate employment, attract foreign investment, and strengthen its position in the global economy. [Read More](#)

Unfathomed GST demands on personal guarantee given by Directors



CA Vineey Patni

GST audits are being carried out by the department and notices are being issued impetuously, as we are nearing the last date to issue show cause notice for non-fraud cases of FY 2017-18. Out of the many audit points, demanding GST on personal guarantees given by Directors is one of the burning issues.

It is a common practice by the financial institutions to obtain a personal guarantee from the Director of the Company in process of sanctioning loans to the company.

No guarantee commission is paid by the companies to the Directors as per instructions of RBI. The guarantees are disclosed in the financial statements under Loans & Advances secured by the personal guarantee of Directors. Let us discuss the provisions of GST law which could be relevant for determining taxability of a guarantee transaction.

[Read More](#)

Legal Updates – July 2023

- Whether 16(4) is violative of the CGST/APGST Act r/w Article 14, 19(1)(g) and Section 300A of the Constitution of India
- Whether State Authorities have jurisdiction to retain the refund consequent to Export of Services
- Whether ITC can be denied to the buyer when seller's GST registration is cancelled?
- Whether rejection of refund without giving an opportunity of explanation for mismatch in returns with that of GSTR 2A is correct?
- Whether second refund claim of accumulated ITC for the same period allowed?
- Whether challan/debit advise issued by Bank, if co-relatable to Bill of Entry/s indicating payment of tax, can be treated as valid document for the purpose of taking credit under Rule 9(1) of Cenvat Credit Rules, 2004 (In short CCR, 2004)?
- Demand of Service Tax on the basis of TDS /26AS statements/3CD Statements is not sustainable: CESTAT Ahmedabad.
- Royalty paid to foreign holding company for providing technology, as percentage of net turnover of manufactured goods, could not be added to assessable value when there was no condition that assessee had to get approval of technology provider either for importing or for procuring components domestically.
- Cash seizure limitation - During an Investigation aimed at tax evasion under GST Act, cash cannot be seized especially when cash does not form part of stock-in-trade of business.
- Orissa HC stayed rest of demand after deposit of entire tax amount till pendency of writ petition.
- Scrutiny proceedings and proceeding under section 74 are two separate and distinct exigencies.
- SCN shouldn't be uploaded merely on portal but also copy to be sent to assessee by e-mail and/or by hand delivery.

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Sl. No	Functionality	Particulars
1	<u>Advisory on E-Invoice - Services Offered by the Four New IRPs</u>	To access the detailed advisory, please follow the link below. This will allow you to download the advisory in PDF format. <u>Read more</u>
2	<u>ADVISORY: MERA BILL MERA ADHIKAAR SCHEME</u>	<ol style="list-style-type: none"> 1. As per the direction from the Government, the GSTN has developed and launched a mobile application (available on iOS and Android platforms) and a web portal for the “Mera Bill Mera Adhikaar” scheme. 2. This scheme will be implemented from 1st September, 2023 initially in the States of Gujarat, Assam, Haryana and UTs of Puducherry and Daman & Diu and Dadra & Nagar Haveli, as per the policy decision of the Government.
3	<u>Advisory for applicants where GST Registration application marked for Biometric-based Aadhaar Authentication</u>	<ol style="list-style-type: none"> 1. Rule 8 of CGST Rules had been amended to provide that those applicants who had opted for authentication of Aadhaar number and identified on the common portal, based on data analysis and risk parameters, shall be placed for biometric-based Aadhaar authentication, and taking photograph(s) of the applicant. 2. Pilot for implementation of the above change is ready and the functionality is ready for roll out by GSTN portal. This functionality is being launched in Puducherry from 30th August, 2023 in the pilot phase. After submission of application in Form GST REG-01 and before generation of ARN, the applicant will either get the message for visiting GST Suvidha Kendra (GSK) or a link on the declared Mobile and Email ID; as may be applicable at TRN stage, based on identification by common portal so that registration process may be completed.

GST	
Notifications-Central Tax	
Instruction No. and Date of issue	Subject
36/2023-Central Tax, Dated 04-08-2023	<p>Seeks to notify special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers.</p> <p>Summary: The ECO, who is required to collect TCS u/s 52 as the class of persons who shall follow the following special procedure in respect of the supply of goods made through it by the persons paying tax under section 10 wef 1st Oct 2023;</p> <ul style="list-style-type: none"> i) ECO shall not allow any inter-state supply of goods by the said person; ii) ECO shall collect and pay TCS in respect of the supply of goods made through it by the said person; and iii) ECO shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8. Read more
37/2023-Central Tax, Dated 04-08-2023	<p>Seeks to notify special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons.</p> <p>Summary: The ECO, who is required to collect TCS u/s 52 as the class of persons who shall follow the following special procedure in respect of the supply of goods made through it by the persons exempted from obtaining registration.</p> <ul style="list-style-type: none"> i) The supply of goods through it by the said person only if the enrolment number has been allotted on the GST portal to the said person; ii) Any inter-state supply of goods through it by the said person; iii) TCS shall not collect u/s 52 in respect of the supply of goods made through it by the said person; iv) Furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 Read more

GST	
Notifications-Central Tax	
38/2023-Central Tax, Dated 04-08-2023	<p>Seeks to make amendments (Second Amendment , 2023) to the CGST Rules, 2017.</p> <p><u>Summary:</u></p> <ol style="list-style-type: none"> 1. Physical verification of business premises in certain cases 2. Insertion of Rule 88D – Difference between ITC in 3B & 2B <p><u>Read more</u></p>
39/2023-Central Tax, Dated 17-08-2023	<p>Seeks to amend Notification No. 02/2017-Central Tax dated 19.06.2017.</p> <p><u>Summary:</u></p> <p>The CBIC has, w.e.f. 4 April 2022 amended the areas to be included in the case of Guntur, Tirupati, and Visakhapatnam. The amendments primarily affect the territorial jurisdiction and tax implications in specific regions. <u>Read more</u></p>
40/2023-Central Tax, Dated 17-08-2023	<p>Seeks to appoint common adjudicating authority in respect of show cause notice issued in favour of M/s United Spirits Ltd.</p> <p><u>Summary:</u></p> <p>The CBIC has appointed a common adjudicating authority in respect of the show cause notice issued in favor of M/s United Spirits Ltd.</p> <p><u>Read more</u></p>
41/2023-Central Tax, Dated 25-08-2023	<p>Seeks to extend the due date for furnishing FORM GSTR-1 for April, May, June and July, 2023 for registered persons whose principal place of business is in the State of Manipur</p> <p><u>Summary:</u></p> <p>A registered person whose Principal Place of business is situated in Manipur. The due date for filing Form GSTR-1 and the quarter April 2023 to June 2023 has been extended to 25 August 2023. <u>Read more</u></p>
42/2023-Central Tax, Dated 25-08-2023	<p>Seeks to extend the due date for furnishing FORM GSTR-3B for April, May, June, and July , 2023 for registered persons whose principal place of business is in the State of Manipur</p> <p><u>Summary:</u></p> <p>A registered person whose Principal Place of business is situated in Manipur. The due date for filing Form GSTR-3B for April, May, June, and July 2023 has been extended to 25 August 2023. <u>Read more</u></p>

GST

Notifications-Central Tax

<p>43/2023-Central Tax, Dated 25-08-2023</p>	<p>Seeks to extend the due date for furnishing FORM GSTR-3B for quarter ending June, 2023 for registered persons whose principal place of business is in the State of Manipur</p> <p><u>Summary:</u> A registered person whose Principal Place of business is situated in Manipur. The due date for filing Form GSTR-3B for the quarter April 2023 to June 2023 has been extended to 25 August 2023 for</p> <p><u>Read more</u></p>
<p>44/2023-Central Tax, Dated 25-08-2023</p>	<p>Seeks to extend the due date for furnishing FORM GSTR-7 for April, May, June and July , 2023 for registered persons whose principal place of business is in the State of Manipur</p> <p><u>Summary:</u> A registered person whose Principal Place of business is situated in Manipur. The due date for filing Form GSTR-7 for April 2023, May 2023, June 2023, and July 2023 has been extended to 25 August 2023 for</p> <p><u>Read more</u></p>

GST

Circular

Circular No. and Date of issue	Subject
<p>200/12/2023-GST, Dated 01-08-2023</p>	<p>clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023 Summary: The CBIC has issued clarification regarding GST rates and classification of the following goods based on the recommendations of the GST Council in its 50th meeting held on 11 July 2023.</p> <ul style="list-style-type: none"> i) Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion; ii) Fish Soluble Paste; iii) Desiccated coconut; iv) Biomass briquettes; v) Imitation Zari thread or yarn known by any name in trade parlance; vi) Supply of raw cotton by agriculturists to cooperatives; vii) Plates, and cups made from areca leaves; viii) Goods falling under HSN heading 9021. Read more
<p>201/13/2023-GST, Dated 01-08-2023</p>	<p>Clarifications regarding applicability of GST on certain services Summary: The CBIC has issued clarification regarding the applicability of GST on the following services:</p> <ol style="list-style-type: none"> 1. Services supplied by the Director of a company in his personal capacity: Such services are not taxable under RCM. Only those services supplied by the Director of the company or body corporate, which are supplied by him as or in the capacity of the Director of that company or body corporate, shall be taxable under RCM in the hands of the company or body corporate. Supply of food or beverages in the cinema hall: 2. Such supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as: <ol style="list-style-type: none"> a. the food or beverages are supplied by way of or as part of a service, and b. supplied independently of the cinema exhibition service. Read more

Customs- Tariff

Notifications

Notification No. and Date of issue	Subject
47/2023-Customs Dated- 19-07-2023	<p>Seeks to amend Second Schedule to the Customs Tariff Act to prescribe export duty on onions.</p> <p>Summary: - NN-47/2023-Customs has amended Second Schedule to the Customs Tariff Act, pertaining to the imposition of export duty on Onion.</p> <p>Read more</p>
48/2023-Customs Dated- 19-07-2023	<p>Seeks to prescribe an effective export duty of 40% on onions till 31st December 2023</p> <p>Summary: - The effective export duty prescribed of 40% on onion till the date of 31st Dec 2023.</p> <p>Read more</p>
49/2023-Customs Dated- 25-07-2023	<p>Seeks to levy export duty on parboiled rice by including it in 2nd Schedule of Customs Tariff Act</p> <p>Summary: - Central Government hereby through notification amended the Second Schedule of Customs Tariff Act and imposed a 20% duty on parboiled rice. Read more</p>
50/2023-Customs Dated- 25-08-2023	<p>Seeks to amend notification No. 55/2022-Customs dated 31.10.2022, to provide conditional exemption on certain varieties of rice.</p> <p>Summary: - (i) Parboiled Rice- Exemption (Nil rate) would come into force on 16th Oct 2023. (ii) Parboiled rice (which has not been granted LEO (let export order) and are backed by valid LCs (Letter of Credit) before August 25, 2023)- Exemption would be available. Read more</p>
51/2023-Customs Dated- 31-08-2023	<p>Seeks to amend No. 11/2021-Customs, dated the 1st February 2021 to exempt LPG, Liquefied Propane and Liquefied Butane from levy of AIDC.</p> <p>Summary: - NN-11/2021-Customs dated 01/02/2021 has amended to exempt LPG, Liquefied Propane, and Liquefied Butane from the levy of AIDC (Agriculture Infrastructure and Development Cess). The exemption will be applicable from 01st September 2023. Read more</p>

One day seminar on “Issues in Real Estate Sector”

Date : 13th October 2023 - Friday

Time: 9.30 am to 5.30 pm.

Venue: The Chancery Pavilion, #135, Residency Road, Bangalore - 560 025,
India (Location link: <https://maps.app.goo.gl/5Smhf1nSzqKywiih7>)

For registration [click here](#)

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ONE DAY SEMINAR ON
Issues in Real Estate Sector

 **13 October 2023**
Friday

 **9.30** - **5.30**
am pm

 **The Chancery Hotel**
#10/6, Lavelle Road, Bangalore - 560001

Registration Fees
₹2,000/-

THE SPEAKERS



CA Sudhir V S



CA Roopa Nayak



CA Mahadev R



CA Akshay M Hiregange

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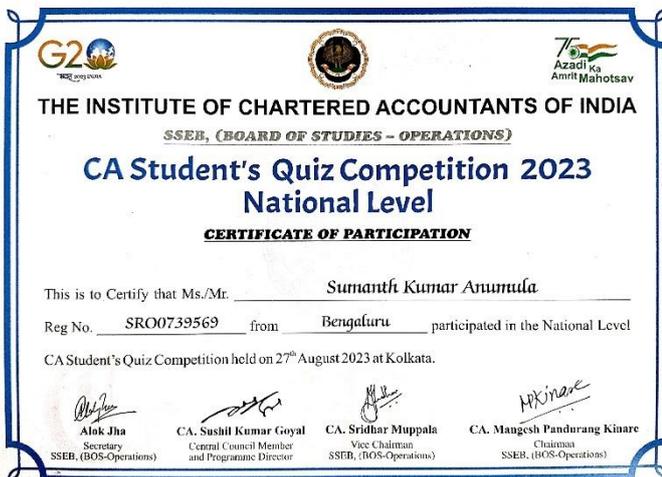
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Seminar Schedule

Timings	Topics	Speaker
9.30am to 11.00am	GST Department Audits -Issues related to Real Estate Sector	CA Sudhir V S
11.00 am to 11.15 am	Break	
11.15 am to 12.45pm	GST and Joint Development Agreements	CA Roopa Nayak
12.45 pm to 1.45 pm	Lunch Break	
1.45pm to 2.30pm	Input Tax Credit for Real Estate Sector	CA Akshay M Hiregange
2.30pm to 3.30pm	Important Aspects in GST review for Real Estate Sector	CA Mahadev R
3.30 pm to 3.45 pm	Break	
3.45pm to 5.15pm	GST and Plotted Developments	CA Roopa Nayak

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Congratulations Mr. Anumula Sumanth Kumar and Mr. Venkata Lokesh Tanguturi Article Assistants H N A & Co., LLP, Bangalore



Mr. Anumula Sumanth Kumar and Mr. Venkata Lokesh Tanguturi brought glory to H N A & Co. LLP by securing 3rd Position at Grand Finale of **CA Student's NATIONAL TALENT HUNT 2023 [Quiz Competition]** Conducted by ICAI, SSEE & BoS (Operations) on 27th August, at Kolkata.

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