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## INDIRECT TAX NEWSLETTER

May, 2021 (updated till 01.05.2021)



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REGULATORY UPDATES

**GST LAW**

**NOTIFICATIONS**

❖ **Notification No. 07/2021 – CT, dated 27.04.2021.**

The CBIC allows the filing of the GSTR-3B and GSTR-1 (including invoice furnishing facility) by using the electronic verified code (EVC) during the period beginning from 27.04.2021 to 31.05.2021.

❖ **Notification No. 08/2021 – CT, dated 01.05.2021.**

The CBIC has provided relief to taxpayers for filing of the GSTR-3B and GSTR-4 by curtailing the interest rate for Mar and Apr 2021. The same shall come into force w.e.f. 18.04.2021.

Taxpayer with an Aggregate Turnover	Tax Period	Due date	Interest Relief from the due date
More than ₹ 5 Crore in the preceding FY	Mar, 2021	20.04.2021	For First 15 days: - 9% Thereafter 15 days: - 18%
	Apr, 2021	20.05.2021	
Up to ₹ 5 Crore in the preceding FY (Opted for monthly option)	Mar, 2021	20.04.2021	For First 15 days: - Nil For Next 15 days: - 9% Thereafter: - 18%
	Apr, 2021	20.05.2021	
Up to ₹ 5 Crore in the preceding FY (Opted for quarterly option)	Mar, 2021	22.04.2021* or 24.04.2021**	For First 15 days: - Nil For Next 15 days: - 9% Thereafter: - 18%
	Apr, 2021	25.05.2021	
Person registered under Composition levy	Quarter ended Mar, 2021	18.04.2021	For First 15 days: - Nil For Next 15 days: - 9% Thereafter: - 18%

❖ **Notification No. 09/2021 – CT, dated 01.05.2021.**

The CBIC has provided relief to the taxpayers for filing of the GSTR-3B by waiving off late fee for Mar and Apr 2021. The same shall come into force w.e.f. 20.04.2021.

Taxpayer with an Aggregate Turnover	Tax Period	Due date	Late Fees Relief if the return file within below date
More than ₹ 5 Crore in the preceding FY	Mar, 2021	20.04.2021	15 days from the due date of furnishing return
	Apr, 2021	20.05.2021	
Up to ₹ 5 Crore in the preceding FY (Opted for monthly option)	Mar, 2021	20.04.2021	30 days from the due date of furnishing return
	Apr, 2021	20.05.2021	



Taxpayer with an Aggregate Turnover	Tax Period	Due date	Late Fees Relief if the return file within below date
Up to ₹ 5 Crore in the preceding FY (Opted for quarterly option)	Jan to Mar, 2021	22.04.2021* 24.04.2021**	30 days from the due date of furnishing return

\*Chhattisgarh, Madhya Pradesh, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Pondicherry, Andaman and Nicobar Islands, Telangana, and Andhra Pradesh

\*\*Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, and Odisha

❖ **Notification No. 10/2021 – CT, dated 01.05.2021.**

The CBIC has extended the due date from 30.04.2021 to 31.05.2021 for furnishing GSTR-4 for FY 2020-21. The same shall come into force w.e.f. 30.04.2021.

❖ **Notification No. 11/2021 – CT, dated 01.05.2021.**

The CBIC has extended the due date from 25.04.2021 to 31.05.2021 for furnishing ITC-04 for period starting from Jan-Mar 2021. The same shall come into force w.e.f. 25.04.2021.

❖ **Notification No. 12/2021 – CT, dated 01.05.2021.**

The CBIC has extended the due date from 11.05.2021 to 26.05.2021 for furnishing GSTR-1 for period Apr 2021.

❖ **Notification No. 13/2021 – CT, dated 01.05.2021.**

The CBIC has amended Rule 36(4) of CGST Rule, 2017 which restricts the availment of input tax credit beyond 5% of the ITC reflected in Form GSTR 2A/2B. However, the said restriction will not apply in individual months of April & May 2021 but will apply cumulatively for the period April & May 2021 and the return in FORM GSTR-3B for the month of May 2021 is to be furnished with the cumulative adjustment of input tax credit for those months.

Further, the registered person may furnish the details using the Invoice Furnishing Facility (IFF) for period Apr 2021 till 28.05.2021.

❖ **Notification No. 14/2021 – CT, dated 01.05.2021.**

The CBIC has extended the due date till 31.05.2021 for furnishing statement of TDS deducted/ TCS Collected for Apr 2021 in GSTR-7/ GSTR-8.

Further, The CBIC has extended due date till 31.05.2021 for furnishing the return by Input Service Distributor/ non-resident taxable person for the month of Apr 2021 in Form GSTR-6/ Form GSTR-5

Furthermore, the CBIC has provided the relaxation of time limit for compliance (which falls during the period from 15.04.2021 to 30.05. 2021 till 31.05. 2021) under GST Law as following:

Particulars	Original Date	Revised Date
Filing of any appeal, reply or application or furnishing of any report, document, return, statement, or such other record, by whatever name called	15.04.2021 to 30.05.2021	31.05.2021



Completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission, or tribunal, by whatever name called	15.04.2021 to 30.05.2021	31.05.2021
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However, such extension of time **shall not be applicable** for the compliances of the following provisions of the said Act, namely: -

a. Chapter IV	Time and Value of Supply
b. Section 10(3)	Composition Person to Normal Person
c. Section 25	Registration
d. Section 27	Casual Taxable Person and Non-Resident Taxable Person
e. Section 31	Tax Invoice
f. Section 37	Furnishing Details of Outward Supplies
g. Section 47	Levy of Late Fees
h. Section 50	Interest Delayed Payment of Tax
i. Section 69	Power to Arrest
j. Section 90	Liability of Partner of Firm to pay Tax
k. Section 122	Penalty for Certain Offences
l. Section 129	Detention, Seizure and release of goods and Convey in Transit
m. Section 39	Filing Return except <b>TDS, ISD and NRTP Return</b>
n. Section 68	In so far as e-way bill is concerned
o. Rules made under the provisions specified at clause (a) to (n) above	

Provided that where, any time limit for completion of any action, by any authority or by any person, specified in, or prescribed or notified **under rule 9 of the Central Goods and Services Tax Rules, 2017. Verification of the application and approval of Registration** falls during the period starting from the **01.05.2021 to 31.05.2021**, and where completion of such action has not been made within such time, then, the time limit for completion of such action, shall be extended up to **15.06.2021**.

Also, in cases where a notice has been issued for rejection of refund claim, in full or in part and **where the time limit for issuance of order** in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of the said Act **falls during the period from 15.04.2021 to 30.05.2021**,

In such cases the time limit for issuance of the said order **shall be extended** to Fifteen days after the receipt of reply to the notice from the registered person or 31.05.2021 whichever is later.

**ADVISORY/INSTRUCTIONS**

The new features related to filing of Statement/ Returns by taxpayers under QRMP Scheme, for the quarter Jan-Mar 2021, which has been made available to them are summarized below.

- Auto Generation of Form GSTR-2B, for the QRMP taxpayers:
  - Form GSTR-2B contains details of filed IFFs (for Month M1 & M2) & filed Form GSTR 1 (for Month M3).
  - Form GSTR 2B has two sections of ITC i.e., ITC available and ITC not available (which flows from the supplier’s filed IFF & Form GSTR-1, imports etc.). It also contains tax liability of the taxpayer (which flows from the taxpayers own filed IFF & Form GSTR-1).
  - Taxpayers can view and download their system generated Quarterly Form GSTR-2B for Jan-March 2021 quarter, by clicking on Auto-drafted ITC statement for the quarter on 14.04.2021, by selecting the last month of the quarter (M3).



- The default view of Form GSTR-2B is quarterly. However, to view Form GSTR-2B of a particular month (M1, M2 or M3), taxpayer has an option to select appropriate month, from the view drop-down to view that month's data.
- A hyperlink 'View advisory' has also been provided, which on clicking displays the criteria/ cut-off dates considered for quarterly GSTR-2B as a pop-up, with details of Supplies from/type i.e., Monthly taxpayer, Taxpayer in QRMP Scheme, NRTP, ISD & Import from Overseas/SEZs, and 'From date' and 'To date' based on which Form GSTR-2B has been generated.
- Auto-population of ITC in Form GSTR-3B for the QRMP taxpayers
  - Figures of ITC available and ITC to be reversed will now be auto-populated in Table 4 of Form GSTR-3B, for the QRMP taxpayers, from their system generated quarterly Form GSTR-2B.
  - On the GSTR-3B dashboard page, an additional button 'System computed GSTR-3B' has also been provided, by clicking which system computed Form GSTR-3B can be downloaded in PDF format.
  - Taxpayer can edit the auto-drafted values as per their records and save the updated details.
  - The system will show a warning message to taxpayers in case ITC available is increased by more than 5% or ITC to be reversed is reduced even partially, by them. However, the system will not stop the filing of Form GSTR-3B in such cases.

## CUSTOMS LAW

### NOTIFICATIONS

❖ **Notification No. 27/2021 – Cus, dated 20.04.2021.**

The CBIC has exempted the customs duty up to 31.10.2021 on import of Remdesivir injection, Remdesivir API and Beta Cyclodextrin (SBEB CD) used in the manufacture of Remdesivir.

❖ **Notification No. 28/2021 – Cus, dated 24.04.2021.**

The CBIC has exempted the customs duty and health cess up to 31.07.2021 on import of oxygen, oxygen related equipment and COVID-19 vaccines.

❖ **Notification No. 29/2021 – Cus, dated 30.04.2021.**

The CBIC has exempted the customs duty up to 31.10.2021 on import of specified Inflammatory Diagnostic (markers) kits.

❖ **Notification No. 30/2021 – Cus, dated 01.05.2021.**

The CBIC has reduced IGST to 12% up to 30.06.2021 on Oxygen Concentrators when imported for personal use.

## FOREIGN TRADE POLICY

### NOTIFICATIONS

❖ **Notification No. 01/2015-2020, dated 11.04.2021.**

The DGFT has amended the export policy of Injection Remdesivir and Remdesivir API from "Free" category to "Prohibited" category.



❖ **Notification No. 04/2015-2020, dated 30.04.2021.**

The DGFT has revised Para 2.25 of FTP-2015-20 to include **import of oxygen concentrators for personal** use through post, courier, or e-commerce portals in the list of exempted categories, where Customs clearance is sought as “Gifts” till **31.07.2021**.

### **PUBLIC NOTICE**

❖ **Public Notice No. 53/2015-2020, dated 09.04.2021.**

The DGFT has provided the relaxation in late cut provisions for Shipping Bills of the period 01.04.2019 to 31.03.2020, so that if such Shipping Bills are submitted on or before 30.09.2021 for an MEIS claim, no late cut would be applicable.

### **TRADE NOTICE**

❖ **Trade Notice No. 01/2021-22 dated 01.04.2021.**

The DGFT has introduced Electronic filing and Issuance of Preferential Certificate of Origin (CoO) for India’s Exports under India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (IMCECPA) w.e.f. 01.04.2021. The concerned Indian Exporters may please take note of the following points regarding the process being notified herewith: -

- ✓ Digital Signature Certificate (DSC) would be required for the purpose of electronic submission. The digital signature would be the same as used in other DGFT applications;
- ✓ The digital signature may be Class III and should have the Importer Exporter Code (IEC) of the firm embedded in the DSC;
- ✓ Any new applicant exporter would be required to initially register at the portal. The password would be sent on the email and mobile number of the IEC holder. In case the IEC holder desires to update their email on which communication is to be sent, the same may be done by using the ‘IEC Profile Management’ service on the DGFT website <https://dgft.gov.in>
- ✓ Once registration is completed, the IEC details would be auto-populated as per the DGFT-IEC database. Applicant is required to ensure that updated IEC details are available in the DGFT system. Necessary steps may be taken to modify the IEC details online, whenever required.
- ✓ For further guidance on registration and application submission, the Help manual & FAQs may be accessed on the landing page at <https://coo.dgft.gov.in>

## **JUDICIAL UPDATES**

### **GST LAW**

❖ **M/s. Bowring Institute; Advance Ruling No. KAR ADRG 27/2021: –**

In the instant matter, the applicant outsources catering services under which it supplies the food and beverages and run a super-market within the premise of the applicant. These facilities are only available for use by the members. These outsourced agencies charge GST on their supplies of food, beverages, and sale of goods to members. The applicant bears the cost of such goods and services from the subscription fees paid by the



members. The applicant has sought the advance ruling on the issue whether the amount collected as membership subscription fees paid by the members of the applicant towards facilities provided by the applicant are liable as supply of service under GST. It was ruled that the GST is not applicable on membership subscription fees collected from members of the club: **Karnataka AAR.**

❖ **M/s. BNP Paribas Global Securities Operations Private Limited Vs Asst. CIT; W.P. Nos. 34638 & 34641 of 2018: –**

In the instant matter, the petitioner had filed the three refund claims for the various periods. The 3<sup>rd</sup> refund claim filed on 30.10.2017 for the exports made during the period starting from Apr 2017 to Jun 2017, the respondent has allowed the claim. However, the corresponding refund claims filed on 07.09.2017 and 21.09.2017, the respondent has rejected the claims. The case of the petitioner is that the reasons given by allowing the refund claim for the period from Apr 2017 to Jun 2017 for a sum of Rs.1,65,14,132/- has to be adopted and therefore, the writ petitions are liable to be allowed. It was submitted that the total value of Input Tax credit which was un-utilized was Rs.6,62,67,726/- which was not taken into GST Account by following the transfer application and therefore the petitioner was entitled to refund claim of the amount even though the petitioner could not debit the duty in the ST-3 return in view of the change in the law. The Hon'ble Madras High Court held that the petitioner has also not been able to utilize the credit of duty under the provisions of GST which came to be effective from July 1, 2017 and legitimate export incentives cannot be denied to the petitioner: **Hon'ble Madras High Court**

❖ **M/s. Guitar Head Publishing LLP; Advance Ruling No. KAR ADRG 23/2021: –**

The applicant has sought for the advance ruling on the issue whether the supply of books from the warehouse located in USA (non-taxable territory) to the customers located in USA, UK, and Canada (non-taxable territory) without such books entering into India by the applicant are treated as supply under GST. The other issue raised was whether GST is levied on the shipping charges collected by the applicant from the customers located in non-taxable territory for the delivery of books from the warehouse located in non-taxable territory to the customer located in non-taxable territory. The AAR ruled that the supply of books from warehouse located in non-taxable territory to customers located in the non-taxable territory without such books entering into India by the applicant does not amount to supply under GST. Further, the shipping charges collected by the applicant from the customers located non-taxable territory for the delivery of books from the warehouse located in non-taxable territory to the customer located in non-taxable territory are not exigible to GST: **Karnataka AAR.**

❖ **M/s. ICU Medical India LLP; Order No. 23/ARA/2020: –**

The appellant sought for the advance ruling on the issue of whether GST is leviable on the reimbursement of expenses from the subsidiary company to its ultimate Holding company located in a foreign territory outside India. The AAR ruled that the applicant is liable to pay IGST on the 'Wellson Commercial Card' expenses paid by the applicant to its Ultimate Holding company, ICU Medicals Inc. having its place of business in the USA under Reverse Charge basis. The AAR further held that the applicant is liable to pay IGST under Reverse Charge, the applicable rate of IGST is 18%. Further, aggrieved from the decision of AAR, the applicant filed appeal before the AAAR wherein the AAAR ruled that the GST is leviable on reimbursement amount, being advance payment made by holding company towards the cost incurred for the provision of Software Services: **Tamilnadu AAAR.**



## CUSTOMS LAW

❖ **M/s. Innomit Mineral Projects Pvt Ltd. Vs Addl. Commissioner of Customs; W.P. Nos. 28048 & 28049 of 2017: –**

In the instant matter, the petitioner claimed to be a victim of the Chinese exporter and sought for a refund of the customs duty paid at the time of filing of Bill of Entry under the self-assessment procedure under the Customs Act, 1962. The petitioner has paid a sum of Rs.13,58,794/- as Customs duty in good faith on the goods declared in the Bill of Trading namely Re-melted Lead Ingots. The Hon'ble High Court directed the respondent to refund a sum of Rs.6,85,687/- being difference between the value of the goods imported and the customs duty paid to the petitioner within appeal of 30 days from the date of receipt of this order together with interest at 7.5% from the date of payment till the date of refund. Since the amount of Rs.13,58,794/- was paid before clearance of any goods, that refund of amounts pursuant to this order and orders to be passed will be outside the scope of Section 27 of the Customs Act, 1962. It is made clear that the petitioner shall not be subjected to any test of unjust enrichment and the balance amount of Rs.6,73,107/- (13,58,794-6,85,687/-) shall be held in lien in the hands of the respondent Customs Department and is to be refunded back to the petitioner subject to outcome of the impugned show cause proceedings: **Madras High Court**

## NEWSFLASH

- ❖ DGGI recovers Rs 74.86 crore from tobacco manufacturer for GST evasion.<sup>1</sup>
- ❖ Centre to retain GST on oxygen concentrators.<sup>2</sup>
- ❖ Faster customs clearance for oxygen-related medical devices.<sup>3</sup>
- ❖ Many Indian companies face customs duty, IGST on fake goods from China.<sup>4</sup>
- ❖ Export orders healthy, demand rising: FIEO.<sup>5</sup>
- ❖ Cabinet approves India-UK deal on information sharing, Customs cooperation.<sup>6</sup>
- ❖ China wants to cut steel production volume; abolishes export rebates.<sup>7</sup>

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<sup>1</sup><https://economictimes.indiatimes.com/news/india/dggi-recovers-rs-74-86-crore-from-tobacco-manufacturer-for-gst-evasion/articleshow/82386257.cms>

<sup>2</sup><https://www.thehindu.com/news/national/centre-to-retain-gst-on-oxygen-concentrators/article34502171.ece>

<sup>3</sup><https://www.livemint.com/news/india/government-relaxes-customs-procedure-for-oxygen-related-medical-devices-11619685998462.html>

<sup>4</sup><https://economictimes.indiatimes.com/news/economy/foreign-trade/cos-face-customs-duty-igst-on-fake-goods-from-china/articleshow/82263985.cms>

<sup>5</sup><https://www.thehindu.com/business/export-orders-healthy-demand-rising-fieo/article34474871.ece>

<sup>6</sup>[https://www.business-standard.com/article/economy-policy/cabinet-approves-india-uk-deal-on-information-sharing-customs-cooperation-121042900016\\_1.html](https://www.business-standard.com/article/economy-policy/cabinet-approves-india-uk-deal-on-information-sharing-customs-cooperation-121042900016_1.html)

<sup>7</sup><https://www.financialexpress.com/industry/china-wants-to-cut-steel-production-volume-abolishes-export-rebates/2245381/>





### About the firm

**RSA Legal Solutions** is a top-tier Tax Law firm committed to providing world-class advisory, litigation, and compliance services to businesses, and singularly focused on serving the needs of business clients. The firm specializes in GST, Customs, Foreign Trade Policy, SEZ laws, FEMA, Income Tax, Corporate laws, and other allied laws.

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