

Indirect Tax Newsletter

September 2022

E-Way Bill generation option for movement of Gold is now available on E-Way Bill Portal

As per the Government recommendation, E-Way Bill generation has been provisioned for movement of Gold (HSN Chapter 71) for all Intrastate and Interstate transactions. The e-Waybill for Gold is available as a separate option in the main menu.

The E-Waybill for Gold has all the same parameters as that of normal e-waybill except that such e-waybills will not be updated with Part-B details. The validity of such e-Waybill is calculated based on the pin-to-pin distance of origin and destination.

New functionalities for taxpayers on GST Portal

New Functionalities made available for Taxpayers on GST Portal in August, 2022 includes Enabling CORE Amendment Link For Taxpayers who fail To Update Bank account, Changes implemented in Form GSTR-3B, Late fee waiver up to 28th July, 2022, for delayed filing of return in Form GSTR-4 (Annual) for the FY 2021-22, Generation of GSTR-11 based on GSTR-1 / 5 for UIN holders, HSN based validation implemented in Form GSTR-9, Changes in HSN length validation in Form GSTR-1, Filing for Refund in Form RFD-01 for exports without payment of tax and Updation of Statistics on GST Portal.



CBIC issues guidelines for filing/revising TRAN-1/TRAN-2

As per the directions of Hon'ble Supreme Court, the facility for filing TRAN-1/ TRAN-2 or revising the earlier filed TRAN-1/TRAN-2 on the common portal by an aggrieved registered assessee will be made available by GSTN during the period from 01.10.2022 to 30.11.2022. In order to ensure uniformity in implementation of the directions of Hon'ble Supreme Court, the CBIC has issued guidelines for the applicants for filing TRAN-1/TRAN-2 or revising earlier filed TRAN-1/TRAN-2.

The applicant shall at the time of filing or revising the declaration in FORM GST TRAN-1/TRAN-2, also upload pdf copy of a declaration on the common portal. The applicant is also required to submit a self-certified copy to the jurisdictional tax officer within 7 days of filing of declaration in FORM TRAN-1/TRAN-2 on the common portal.

GSTN incorporates changes in Form GSTR-3B

The Government vide Notification No. 14/2022 – Central Tax dated July 5th, 2022 has notified few changes in Table 4 of Form GSTR-3B for enabling taxpayers to correctly report information regarding ITC availed, ITC reversal and ineligible ITC in Table 4 of GSTR-3B.

Now, the notified changes of Table 4 of GSTR-3B have been incorporated in GSTR-3B and are available on GST Portal since September 1st, 2022. The taxpayers are advised to report their ITC availment, reversal of ITC and ineligible ITC correctly as per new format of Table 4 of GSTR-3B at GST Portal for the GSTR-3B to be filed for the period August 2022 onwards.



CASE LAWS (GST)

VAGUE SCN FOR CANCELLATION OF GST REGISTRATION & SUBSEQUENT CANCELLATION NOT SUSTAINABLE

Case Name: DBS Tradelink and Advisors Pvt. Ltd. Vs State of Maharashtra (Bombay High Court)

Case Number: W.P. (T) No. 8474 of 2022

Case Number: 20/07/2022

HC held that We do not know how a person is expected to respond to a vague show cause notice. It says 'it appears that registration is liable to be cancelled for the following reason: in case registration has been obtained by means of fraud, wilful misstatement or suppression of facts.' The show cause notice does not even allege that petitioner has obtained registration by fraud or wilful misstatement or suppression of facts. There is a digital signature appended in the said document which says signature is not verified. Therefore, we have to take it to be an unsigned document. We fail to understand how it can be an official document. In the next line it says whereas no reply to notice to show cause has been submitted and in the third line it says whereas the undersigned has examined your reply. It ends with the determination of amount payable pursuant to cancellation as zero. In the circumstances, we have no option but to quash and set aside the impugned order. Even the show cause notice is hereby quashed and set aside. It is open to respondents to proceed further in accordance with law, but not in a digital form until the problem is resolved. Respondents shall issue notices and pass order in physical form unless the network problem is resolved.

GST REFUND NOW ALLOWABLE IF NOT CORROBORATED BY DOCUMENTARY EVIDENCE

Case Name: CTC (India) Private Limited Vs Commissioner (Appeals) (Jharkhand High Court)

Case Number: W.P.(T) No. 1031 of 2021

Case Date: 07/09/2022

It appears that petitioner has not produced any documentary evidence for his claim of refund; either before the adjudicating authority or before the appellate authority though he was afforded personal hearing, but the petitioner failed to prove that the declaration zero rated value of GSTR-1 was legal and genuine.

It further transpires that the Appellate Authority has given a categorically finding that the application for refund of unutilized ITC on account of zero rated supplies has to be accompanied by documentary evidence to establish that a refund is genuinely due to the applicant. However, in the instant case such documentary or other evidence which was necessary to substantiate the claim of the assessee was not furnished even before the Appellate Authority.

In other words, the assessee could not provide any such corroborative evidence in the form of documents even before the Appellate Authority, what to say before the assessment proceeding, to substantiate its claim of zero-rated supply so that its claim could be validated. The law is very clear that merely claiming any refund on the basis of averments would not suffice unless and until the said claim of any assessee is corroborated by documentary evidence. In the instant case, the petitioner is making claim without furnishing any documentary evidence to support their contention.

From the appellate order it also transpires that the Appellate Authority has duly considered the circular No.37/11/2018-GST dated 15.3.2018 which is related to a refund claim on account of export of goods without payment of tax and held that the same is possible only on verification of invoices. At the cost of repetition, since the petitioner fails to substantiate its claim of refund by giving documentary evidence either before the assessment proceeding or before the appellate authority; his claim for refund has been rejected. Even before this Court, the petitioner failed to do so.

Before parting, it is pertinent to mention here that the claim of the petitioner that the impugned order of rejection is bad in law on the ground of principal of natural justice of affording reasonable opportunity is also not sustainable, inasmuch as, from the impugned order itself it is clear that personal opportunity of hearing was duly afforded to the petitioner and as a matter of fact on the date of personal hearing, which was conducted on 31.1.2019, the assessee was represented by Sri P. K. Choudhary and Sri Gurtej Singh; as such, even the ground of natural justice is misplaced in the instant case.

Having regard to the facts of the case and the discussion made hereinabove, we refrain to interfere with the impugned orders.

