

Law and Provisions under CGST

Chapter 19 – OFFENCES AND PENALTIES

19.0 OFFENCES AND PENALTIES – The provisions related to Offences and Penalties - Penalty for certain offences, Penalty for failure to furnish information return, Fine for failure to furnish statistics, General penalty, General disciplines related to penalty, Power to impose penalty in certain cases, Power to waive penalty or fee or both, Detention, seizure and release of goods and conveyances in transit, Confiscation of goods or conveyances and levy of penalty, Confiscation or penalty not to interfere with other punishments, Punishment for certain offences, Liability of officers and certain other persons, Cognizance of offences, Presumption of culpable mental state, Relevancy of statements under certain circumstances, Offences by companies and Compounding of offences are covered under Chapter XIX of the CGST Act 2017 from Section 122 to Section 138.

The Central Government has appointed the 1st day of July, 2017, as the date on which the provisions of these sections came in to force vide Notification No. 9/2017- Central Tax dated 28.06.2017.

Chapter XIX of CGST Act 2017– Offences and Penalties	
Section	Particulars
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Section 123	Penalty for failure to furnish information return
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CGST Rules 2017 – Offences and Penalties	
Rules	Particulars
Rule 162	Procedure for compounding of offences

19.1 Penalty for certain offences. [Section 122]

Section 122(1)	01.07.2017 to till date	<p>Where a taxable person who—</p> <ul style="list-style-type: none"> (i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply; (ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder; (iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; (iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; (v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax; (vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52; (vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder; (viii) fraudulently obtains refund of tax under this Act; (ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder; (x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act; (xi) is liable to be registered under this Act but fails to obtain registration; (xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;
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		<p>(xiii) obstructs or prevents any officer in discharge of his duties under this Act;</p> <p>(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;</p> <p>(xv) suppresses his turnover leading to evasion of tax under this Act;</p> <p>(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;</p> <p>(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;</p> <p>(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;</p> <p>(xix) issues any invoice or document by using the registration number of another registered person;</p> <p>(xx) tampers with, or destroys any material evidence or document;</p> <p>(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,</p> <p>he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.</p>						
Section 122(1A)	01.01.2021 to till date	<p>¹[(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.]</p> <div><p>1. Inserted w.e.f. 01.01.2021 vide Section 126 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax dated 22nd December 2020</p></div>						
¹[Section 122(1B)	01.10.2023 to till next amendment	<p>Any electronic commerce operator who—</p> <table><tr><td>(i)</td><td>allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;</td></tr><tr><td>(ii)</td><td>allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or</td></tr><tr><td>(iii)</td><td>fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any</td></tr></table>	(i)	allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;	(ii)	allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or	(iii)	fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any
(i)	allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;							
(ii)	allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or							
(iii)	fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any							

		<p>outward supply of goods effected through it by a person exempted from obtaining registration under this Act,</p> <p>shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.]</p> <div> <p>1. The sub-section 1B shall be inserted vide Section 155 of the Finance Act 2023 and shall come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>
Section 122(2)	01.07.2017 to till date	<p>Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—</p> <p>(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;</p> <p>(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.</p>
Section 122(3)	01.07.2017 to till date	<p>Any person who—</p> <p>(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);</p> <p>(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;</p> <p>(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;</p> <p>(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;</p> <p>(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account,</p> <p>shall be liable to a penalty which may extend to twenty-five thousand rupees.</p>

19.1.1.1 Departmental Clarifications - Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances — [Circular No. 41/15/2018-GST dated 13th April, 2018](#)

Sub-section (1) of section 68 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the CGST rules prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.

2. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the CGST Act, hereby issues the following instructions:

(a) The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.

(b) The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending EWBVER to the mobile number 77382 99899 (For e.g. EWBVER 120100231897).

(c) For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the CGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the CGST Act vide [Circular No. 3/3/2017 – GST, dated 05.07.2017](#).

(d) Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in FORM GST MOV01. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in FORM GST MOV-02, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty four hours of the aforementioned issuance of FORM GST MOV-02, prepare a report in Part A of FORM GST EWB-03 and upload the same on the common portal.

(e) Within a period of three working days from the date of issue of the order in FORM GST MOV-02, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in FORM GST MOV-03 from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

(f) On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in FORM GST MOV-04 and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the inspection in Part B of FORM GST EWB-03 within three days of such physical verification/inspection.

(g) Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in FORM GST MOV-05 and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in FORM GST MOV-06 and a notice in FORM GST MOV-07 in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.

(h) Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in FORM GST MOV-05. Further, the order in FORM GST MOV-09 shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(i) Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by

furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in FORM GST MOV-05, after obtaining a bond in FORM GST MOV-08 along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act. The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.

(j) Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in FORM GST MOV-09, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in FORM GST MOV-05. The order in FORM GST MOV-09 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(k) In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

(l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in FORM GST MOV-10. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.

(m) No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.

(n) An order of confiscation of goods shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in FORM GST MOV-11, the order in FORM GST MOV-09 passed earlier with respect to the said goods shall be withdrawn.

(o) An order of confiscation of conveyance shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the Central Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(p) The order referred to in clauses (n) and (o) above may be passed as a common order in the said FORM GST MOV-11.

(q) In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in FORM GST MOV11, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.

(r) Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.

(s) Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.

(t) The procedure narrated above shall be applicable mutatis mutandis for an order or proceeding under the IGST Act, 2017.

(u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.

(v) A summary of every order in FORM GST MOV-09 and FORM GST MOV-11 shall be uploaded electronically in FORM GST-DRC-07 on the common portal.

3. The format of [FORMS GST MOV-01 to GST MOV-11](#) are annexed to this Circular.

19.1.1.1 Departmental Clarifications - Changes in Circulars issued earlier under the CGST Act, 2017- [Circular No. 88/07/2019-GST dated 1st February, 2019](#)

The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to

States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the CGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

5 Circular No. 41/15/2018 dated 13.04.2018

This circular is revised in view of the amendment carried out in section 129 of the CGST Act, 2017 vide section 27 of the CGST (Amendment) Act, 2018 allowing 14 days for owner/transporter to pay tax/penalty for seized goods. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

5.1 Original Para 2(k)

In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

5.2 Amended Para 2(k)

In case the proposed tax and penalty are not paid within fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

5.3 Further, FORM GST MOV-08 and FORM GST MOV-09, annexed to the circular are revised as below:

FORM GST MOV-08 (para 4)

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within fourteen days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

FORM GST MOV-09 (para 10)

You are hereby directed to make the payment forthwith/not later than fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated

19.1.1.2 Departmental Clarifications - Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor- [Circular No. 71/45/2018-GST dated 26th October, 2018](#)

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

S. No.	Issue	Clarification
1	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" only and not the gross tax liability.</p> <p>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</p>
2.	As per section 27 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by casual taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	<p>1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.</p> <p>2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</p> <p>3. In such cases he would not be required to pay advance tax for the purpose of registration.</p> <p>4. He can surrender such registration once the exhibition is over.</p>
3.	Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.	<p>1. According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.</p> <p>2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03.</p> <p>3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s)</p>

	<p>under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases.</p> <p>4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the CGST Act.</p>
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19.1.1.3 Departmental Clarifications - Compliance of rule 46(n) of the CGST Rules, 2017 while issuing invoices in case of inter- State supply- [Circular No. 90/09/2019-GST dated 18th February, 2019](#)

A registered person supplying taxable goods or services or both is required to issue a tax invoice as per the provisions contained in section 31 of the Central Goods and Services Tax Act, 2017 (CGST Act for short). Rule 46 of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short) specifies the particulars which are required to be mentioned in a tax invoice.

2. It has been brought to the notice of the Board that a number of registered persons (especially in the banking, insurance and telecom sectors, etc.) are not mentioning the place of supply along with the name of the State in case of a supply made in the course of inter State trade or commerce in contravention of rule 46(n) of the CGST Rules which mandates that the said details must be mentioned in a tax invoice. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, hereby issues the following instructions.

3. After introduction of GST, which is a destination-based consumption tax, it is essential to ensure that the tax paid by a registered person accrues to the State in which the consumption of goods or services or both takes place. In case of inter-State supply of goods or services or both, this is ensured by capturing the details of the place of supply along with the name of the State in the tax invoice.

4. It is therefore, instructed that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice. The provisions of sections 10 and 12 of the Integrated Goods and Services Tax Act, 2017 may be referred to in order to determine the place of supply in case of supply of goods and services respectively. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of sections 122 or 125 of the CGST Act.

19.1A. Penalty for failure to register certain machines used in manufacture of goods as per special procedure [Section 122A]

Notes

1. To be inserted vide section 13 of the Finance Act 2024 (No.8 of 2024) and shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Section 122A(1)	From a date to be notified	Notwithstanding anything contained in this Act, where any person, who is engaged in the manufacture of goods in respect of which any special procedure relating to registration of machines has been notified under section 148, acts in contravention of the said special procedure, he shall, in addition to any penalty that is paid or is payable by him under Chapter XV or any other provisions of this Chapter, be liable to pay a penalty equal to an amount of one lakh rupees for every machine not so registered. Penalty for failure to register certain machines used in manufacture of goods as per special procedure.				
Section 122A(1)	From a date to be notified	In addition to the penalty under sub-section (1), every machine not so registered shall be liable for seizure and confiscation:				
Proviso	From a date to be notified	Provided that such machine shall not be confiscated where— <table><tr><td>(a)</td><td>the penalty so imposed is paid, and</td></tr><tr><td>(b)</td><td>the registration of such machine is made in accordance with the special procedure within three days of the receipt of communication of the order of penalty.</td></tr></table>	(a)	the penalty so imposed is paid, and	(b)	the registration of such machine is made in accordance with the special procedure within three days of the receipt of communication of the order of penalty.
(a)	the penalty so imposed is paid, and					
(b)	the registration of such machine is made in accordance with the special procedure within three days of the receipt of communication of the order of penalty.					

19.2 Penalty for failure to furnish information return. [Section 123]

Section 123	01.07.2017 to till date	If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues:
First Proviso	01.07.2017 to till date	Provided that the penalty imposed under this section shall not exceed five thousand rupees.

19.3 Fine for failure to furnish statistics. [Section 124]

Section 124	01.07.2017 to till date	<p>If any person required to furnish any information or return under section 151,—</p> <p>(a) without reasonable cause fails to furnish such information or return as may be required under that section, or</p> <p>(b) wilfully furnishes or causes to furnish any information or return which he knows to be false,</p> <p>he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each</p>
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		day after the first day during which the offence continues subject to a maximum limit of twenty five thousand rupees.
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19.4 General penalty. [Section 125]

Section 125	01.07.2017 to till date	Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.
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19.4.1.1 Departmental Clarifications - Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in [Circular No. 41/15/2018-GST dated 13th April, 2018](#) and [Circular No. 49/23/2018-GST dated 21st June, 2018](#)-[Circular No. 64/38/2018-GST dated 14th September, 2018](#)

Kind attention is invited to [Circular No. 41/15/2018-GST dated 13th April, 2018](#) as amended by [Circular No. 49/23/2018-GST dated 21st June, 2018](#) vide which the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances was specified.

2. Various representations have been received regarding imposition of penalty in case of minor discrepancies in the details mentioned in the e-way bill although there are no major lapses in the invoices accompanying the goods in movement. The matter has been examined. In order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') hereby clarifies the said issue hereunder.

3. Section 68 of the CGST Act read with rule 138A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') requires that the person in charge of a conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry and a valid e-way bill in physical or electronic form for verification. In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable. Further, it may be noted that the non-furnishing of information in Part B of FORM GST EWB-01 amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of upto fifty kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be.

4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act

are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- d) Error in one or two digits of the document number mentioned in the e-way bill;
- e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- f) Error in one or two digits/characters of the vehicle number.

6. In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

19.4.1.2 Departmental Clarifications - Clarification on certain issues (sale by government departments to unregistered person; levability of penalty under section 73(11) of the CGST Act; rate of tax in case of debit notes / credit notes issued under section 142(2) of the CGST Act; applicability of [notification No. 50/2018-Central Tax](#); valuation methodology in case of TCS under Income Tax Act and definition of owner of goods) related to GST- [Circular No. 76/50/2018-GST dated 31st December, 2018](#)

Various representations have been received seeking clarification on certain issues under the GST laws. In order to clarify these issues and to ensure uniformity of implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") hereby clarifies the issues as below:

Sl. No.	Issue	Clarification

1.	Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?	<p>1. It may be noted that intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST.</p> <p>2. Vide Notification No. 36/2017-Central Tax (Rate) and Notification No. 37/2017-Integrated Tax (Rate) both dated 13.10.2017, it has been notified that intra-State and inter-State supply respectively of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by the Central Government, State Government, Union territory or a local authority to any registered person, would be subject to GST on reverse charge basis as per which tax is payable by the recipient of such supplies.</p> <p>3. A doubt has arisen about taxability of intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority to an unregistered person.</p> <p>4. It was noted that such supply to an unregistered person is also a taxable supply under GST but is not covered under notification No. 36/2017-Central Tax (Rate) and notification No. 37/2017- Integrated Tax (Rate) both dated 13.10.2017.</p> <p>5. In this regard, it is clarified that the respective Government departments (i.e. Central Government, State Government, Union territory or a local authority) shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act.</p>
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2.	Whether penalty in accordance with section 73(11) of the CGST Act should be levied in cases where the return in FORM GSTR-3B has been filed after the due date of filing such return?	<p>1. As per the provisions of section 73(11) of the CGST Act, penalty is payable in case self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.</p> <p>2. It may be noted that a show cause notice (SCN for short) is required to be issued to a person where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised for any reason under the provisions of section 73(1) of the CGST Act. The provisions of section 73(11) of the CGST Act can be invoked only when the provisions of section 73 are invoked.</p> <p>3. The provisions of section 73 of the CGST Act are generally not invoked in case of delayed filing of the return in FORM GSTR-3B because tax along with applicable interest has already been paid but after the due date for payment of such tax. It is accordingly clarified that penalty under the provisions of section 73(11) of the CGST Act is not payable in such cases. It is further clarified that since the tax has been paid late in contravention of the provisions of the CGST Act, a general penalty under section 125 of the CGST Act may be imposed after following the due process of law.</p>
3.	In case a debit note is to be issued under section 142(2)(a) of the CGST Act or a credit note under section 142(2)(b) of the CGST Act, what will be the tax rate applicable – the rate in the pre-GST regime or the rate applicable under GST?	<p>1. It may be noted that as per the provisions of section 142(2) of the CGST Act, in case of revision of prices of any goods or services or both on or after the appointed day (i.e., 01.07.2017), a supplementary invoice or debit/credit note may be issued which shall be deemed to have been issued in respect of an outward supply made under the CGST Act.</p> <p>2. It is accordingly clarified that in case of revision of prices, after the appointed date, of any goods or services supplied before the appointed day thereby requiring issuance of any supplementary invoice, debit note or credit note, the rate as per the provisions of the GST Acts (both CGST and SGST or IGST) would be applicable.</p>

4.	Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of notification No. 50/2018-Central Tax dated 13.09.2018 .	<p>1. A doubt has arisen about the applicability of long line mentioned in clause (a) of notification No. 50/2018- Central Tax dated 13.09.2018.</p> <p>2. It is clarified that the long line written in clause (a) in notification No. 50/2018- Central Tax dated 13.09.2018 is applicable to both the items (i) and (ii) of clause (a) of the said notification. Thus, an authority or a board or any other body whether set up by an Act of Parliament or a State Legislature or established by any Government with fifty-one per cent. or more participation by way of equity or control, to carry out any function would only be liable to deduct tax at source.</p> <p>3. In other words, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which fifty one per cent. or more participation by way of equity or control is with the Government.</p>
5.	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	<p>1. Section 15(2) of CGST Act specifies that the value of supply shall include “any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.”</p> <p>2. It is clarified that as per the above provisions, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS.</p>
6.	Who will be considered as the 'owner of the goods' for the purposes of section 129(1) of the CGST Act?	It is hereby clarified that if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner. If the invoice or any other specified document is not accompanying the consignment of goods, then in such cases, the proper officer should determine who should be declared as the owner of the goods.

19.4.1.3 Departmental Clarifications - Mentioning details of inter-State supplies made to unregistered persons in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR-1- [Circular No. 89/08/2019-GST dated 18th February, 2019](#)

A registered supplier is required to mention the details of inter -State supplies made to unregistered persons, composition taxable persons and UIN holders in Table 3.2 of FORM GSTR-3B. Further, the details of all inter-State supplies made to unregistered persons where the invoice value is up to Rs 2.5 lakhs (rate-wise) are required to be reported in Table 7B of FORM GSTR-1.

2. It has been brought to the notice of the Board that a number of registered persons have not reported the details of inter-State supplies made to unregistered persons in Table 3.2 of FORM GSTR-3B. However, the said details have been mentioned in Table 7B of FORM GSTR-1. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017(CGST Act for short), hereby issues the following instructions.

3. It is pertinent to mention that apportionment of IGST collected on inter–State supplies made to unregistered persons in the State where such supply takes place is based on the information reported in Table 3.2 of FORM GSTR-3B by the registered person. As such, non-mentioning of the said information results in –

(i) non-apportionment of the due amount of IGST to the State where such supply takes place; and

(ii) a mis-match in the quantum of goods or services or both actually supplied in a State and the amount of integrated tax apportioned between the Centre and that State, and consequent non-compliance of sub-section (2) of section 17 of the Integrated Goods and Services Tax Act, 2017.

4. Accordingly, it is instructed that the registered persons making inter-State supplies to unregistered persons shall report the details of such supplies along with the place of supply in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR–1 as mandated by the law. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of section 125 of the CGST Act.

19.4.1.4 Departmental Clarifications - Compliance of rule 46(n) of the CGST Rules, 2017 while issuing invoices in case of inter- State supply- [Circular No. 90/09/2019-GST dated 18th February, 2019](#)

A registered person supplying taxable goods or services or both is required to issue a tax invoice as per the provisions contained in section 31 of the Central Goods and Services Tax Act, 2017 (CGST Act for short). Rule 46 of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short) specifies the particulars which are required to be mentioned in a tax invoice.

2. It has been brought to the notice of the Board that a number of registered persons (especially in the banking, insurance and telecom sectors, etc.) are not mentioning the place of supply along with the name of the State in case of a supply made in the course of inter State trade or commerce in contravention of rule 46(n) of the CGST Rules which mandates that the said details must be mentioned in a tax invoice. In order to ensure uniformity in the

implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017, hereby issues the following instructions.

3. After introduction of GST, which is a destination-based consumption tax, it is essential to ensure that the tax paid by a registered person accrues to the State in which the consumption of goods or services or both takes place. In case of inter-State supply of goods or services or both, this is ensured by capturing the details of the place of supply along with the name of the State in the tax invoice.

4. It is therefore, instructed that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice. The provisions of sections 10 and 12 of the Integrated Goods and Services Tax Act, 2017 may be referred to in order to determine the place of supply in case of supply of goods and services respectively. Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of sections 122 or 125 of the CGST Act.

19.5 General disciplines related to penalty. [Section 126]

Section 126(1)	01.07.2017 to till date	No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.
Explanation	01.07.2017 to till date	For the purpose of this sub-section,— (a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees; (b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.
Section 126(2)	01.07.2017 to till date	The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.
Section 126(3)	01.07.2017 to till date	No penalty shall be imposed on any person without giving him an opportunity of being heard.
Section 126(4)	01.07.2017 to till date	The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.
Section 126(5)	01.07.2017 to till date	When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this

		fact as a mitigating factor when quantifying a penalty for that person.
Section 126(6)	01.07.2017 to till date	The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

19.6 General disciplines related to penalty. [Section 127]

Section 127	01.07.2017 to till date	Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.
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19.7 Power to waive penalty or fee or both. [Section 128]

Section 128	01.07.2017 to till date	The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.
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The Central Government has issued many Notifications in pursuance of the provisions of Section 128 of the CGST Act 2017 from time to time, to waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

19.7.1.1 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-1

[Notification No. 4/2018 – Central Tax dated 23rd January, 2018](#) - The Central Government, on the recommendations of the Council, has waived the amount of late fee payable by any registered person for failure to furnish the details of outward supplies for any month/quarter in FORM GSTR-1 by the due date under section 47 of the said Act, which is **in excess of an amount of twenty-five rupees for every day** during which such failure continues:

Provided that where there are no outward supplies in any month/quarter, the amount of late fee payable by such registered person for failure to furnish the said details by the due date

under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

Further, [Notification No. 75/2018 – Central Tax dated 31st December, 2018](#) has amended [Notification No. 4/2018 – Central Tax dated 23rd January, 2018](#) , namely:–

In the said notification, after the proviso, the following proviso shall be inserted, namely:–

“Provided further that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who failed to furnish the details of outward supplies in FORM GSTR-1 for the months/quarters from July, 2017 to September, 2018 by the due date but furnishes the said details in FORM GSTR-1 between the period from 22nd December, 2018 to 31st March, 2019.”.

Further, [Notification No. 74/2019 – Central Tax dated 26th December, 2019](#) effective from 19th day of December, 2019 has further amended [Notification No. 4/2018 – Central Tax dated 23rd January, 2018](#) , namely:–

In the said notification, after the second proviso, the following proviso shall be inserted, namely:–

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who failed to furnish the details of outward supplies in FORM GSTR-1 for the months/quarters from July, 2017 to November, 2019 by the due date but furnishes the said details in FORM GSTR-1 between the period from 19th December, 2019 to 10th January, 2020.”.

Further, [Notification No. 04/2020 – Central Tax dated 10th January, 2020](#) has further amended [Notification No. 4/2018 – Central Tax dated 23rd January, 2018](#) , namely:–

In the said notification, in the third proviso for the figures, letters and word “10th January, 2020”, the figures, letters and word “17th January, 2020” shall be substituted.

Further, [Notification No. 33/2020 – Central Tax dated 3rd April, 2020](#) has further amended [Notification No. 4/2018 – Central Tax dated 23rd January, 2018](#) , namely:–

In the said notification, after the third proviso, the following proviso shall be inserted, namely:
–

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the months of March, 2020, April, 2020 and May, 2020, and for the quarter ending

31st March, 2020, for the registered persons who fail to furnish the details of outward supplies for the said periods in FORM GSTR-1 by the due date, but furnishes the said details in FORM GSTR-1, on or before the 30th day of June, 2020.”.

Further, [Notification No. 53/2020 – Central Tax dated 24th June, 2020](#) - The Government, on the recommendations of the Council, has further amended [Notification No. 4/2018 – Central Tax dated 23rd January, 2018](#) , namely:–

In the said notification, for the third proviso, the following proviso shall be substituted, namely:

—

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who fail to furnish the details of outward supplies for the months or quarter mentioned in column (2) of the Table below in FORM GSTR-1 by the due date, but furnishes the said details on or before the dates mentioned in column (3) of the said Table:-

Table

Sl. No.	Month/Quarter	Dates
(1)	(2)	(3)
1.	March, 2020	10th day of July, 2020
2.	April, 2020	24th day of July, 2020
3.	May, 2020	28th day of July, 2020
4.	June, 2020	5th day of August, 2020
5.	January to March, 2020	17th day of July, 2020
6.	April to June, 2020	3rd day of August, 2020.”.

[Notification No. 20/2021 – Central Tax dated 1st June, 2021](#) - The Government, on the recommendations of the Council, has further amended [Notification No. 4/2018 – Central Tax dated 23rd January, 2018](#) , namely:–

In the said notification, after the fourth proviso, the following proviso shall be inserted, namely:

—

“Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onward, as the case may be, shall stand waived which is in excess of an amount as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the details of outward supplies in **FORM GSTR-1** by the due date, namely: —

Table

S. No.	Class of registered persons	Amount
(1)	(2)	(3)
1.	Registered persons who have nil outward supplies in the tax period	Two hundred and fifty rupees
2.	Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1	One thousand rupees
3.	Registered persons having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Two thousand and five hundred rupees

[Notification No. 41/2019 – Central Tax dated 31st August, 2019](#) - In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act, by the following class of taxpayers: –

(i) the registered persons whose principal place of business is in the district mentioned in column (3) of the Table below, of the State as mentioned in column (2) of the said Table, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019;

(ii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019;

(iii) the Input Service Distributors whose principal place of business is in the district mentioned in column (3) of the above said Table, of the State as mentioned in column (2) of the said

Table, who have furnished, electronically through the common portal, return in **FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019;

(iv) the Input Service Distributors whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019.

Table

Sl. No.	Name of State	Name of District
(1)	(2)	(3)
1.	Bihar	Araria, Kishanganj, Madhubani, East Champaran, Sitamarhi, Sheohar, Supaul, Darbhanga, Muzaffarpur, Saharsa, Katihar, Purnia, West Champaran.
2.	Gujarat	Vadodara.
3.	Karnataka	Bagalkot, Ballari, Belagavi, Chamarajanagar, Chikkamagalur, Dakshina Kannada, Davanagere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi, Kodagu, Koppal, Mandya, Mysuru, Raichur, Shivamogga, Udupi, Uttara Kannada, Vijayapura, Yadgir.
4.	Kerala	Idukki, Malappuram, Wayanad, Kozhikode.
5.	Maharashtra	Kolhapur, Sangli, Satara, Ratnagiri, Sindhudurg, Palghar, Nashik, Ahmednagar.
6.	Odisha	Balangir, Sonepur, Kalahandi, Nuapada, Koraput, Malkangiri, Rayagada, Nawarangpur.
7.	Uttarakhand	Uttarkashi and Chamoli

Further, [Notification No. 48/2019 – Central Tax dated 9th October, 2019](#) - The Central Government, on the recommendations of the Council, has amended the [Notification No. 41/2019 – Central Tax dated 31st August, 2019](#), namely:–

In the said notification, in the opening paragraph–

(a) in clause (ii), for the figures, letters and word “20th September”, the figures, letters and word “11th October” shall be inserted;

(b) after the clause (iv), the following clauses shall be inserted, namely: –

“(v) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as the said rules), for the month of August, 2019**, on or before the 11th October, 2019, for failure to furnish the said FORM GSTR-1 by the due date;

(vi) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, **for the month of July, 2019**, on or before the 10 th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;

(vii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, **for the month of August, 2019**, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;

(viii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B of the said rules, for the month of July, 2019**, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date;

(ix) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B of the said rules, for the month of August, 2019**, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date.”.

19.7.1.2 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-3B

[Notification No.28/2017 – Central Tax dated 01st September, 2017](#) - The Central Government, on the recommendations of the Council, has waived the late fee payable under section 47 of

the said Act, for all registered persons who failed to furnish the return in FORM GSTR-3B for the month of July, 2017 by the due date.

[Notification No. 50/2017 – Central Tax dated 24th October, 2017](#) - The Central Government, on the recommendations of the Council, has waived the late fee payable under section 47 of the said Act, for all registered persons who failed to furnish the return in FORM GSTR-3B for the months of August and September, 2017 by the due date.

[Notification No. 64/2017 – Central Tax dated 15th November, 2017](#) - the Central Government, on the recommendations of the Council, hereby waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR3B for the month of October, 2017 onwards by the due date under section 47 of the said Act, which is in excess of an amount of twenty five rupees for every day during which such failure continues:

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return for the month of October, 2017 onwards by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

[Notification No. 22 /2018 – Central Tax dated 14th May, 2018](#) - The Central Government, on the recommendations of the Council, has waived the late fee payable under section 47 of the said Act for failure to furnish the return in FORM GSTR-3B by the due date for each of the months from October, 2017 to April, 2018, for the class of registered persons whose declaration in FORM GST TRAN-1 was submitted but not filed on the common portal on or before the 27th day of December, 2017:

Provided that such registered persons have filed the declaration in FORM GST TRAN-1 on or before the 10th day of May, 2018 and the return in FORM GSTR-3B for each of such months, on or before the 31st day of May, 2018.

[Notification No. 41/2018 – Central Tax dated 4th September, 2018](#) - The Central Government, on the recommendations of the Council, has waived the late fee paid under section 47 of the said Act, by the following classes of taxpayers:-

(i) the registered persons whose return in FORM GSTR-3B of the Central Goods and Services Tax Rules, 2017 for the month of October, 2017, was submitted but not filed on the common portal, after generation of the application reference number;

(ii) the registered persons who have filed the return in FORM GSTR-4 of the Central Goods and Services Tax Rules, 2017 for the period October to December, 2017 by the due date but late fee was erroneously levied on the common portal;

(iii) the Input Service Distributors who have paid the late fee for filing or submission of the return in FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017 for any tax period between the 1st day of January, 2018 and the 23rd day of January, 2018.

[Notification No. 76/2018 – Central Tax dated 31st December, 2018](#) - The Central Government, on the recommendations of the Council, and in supersession of [Notification No.28/2017 – Central Tax dated 01st September, 2017](#), [Notification No. 50/2017 – Central Tax dated 24th October, 2017](#) and [Notification No. 64/2017 – Central Tax dated 15th November, 2017](#), except as respects things done or omitted to be done before such supersession, has waived the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR-3B for the month of July, 2017 onwards by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return for the month of July, 2017 onwards by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues:

Provided further that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who failed to furnish the return in FORM GSTR-3B for the months of July, 2017 to September, 2018 by the due date but furnishes the said return between the period from 22nd December, 2018 to 31st March, 2019.

Further, [Notification No. 32/2020 – Central Tax 3rd April, 2020](#) effective from 20th day of March, 2020. - The Government, on the recommendations of the Council, has amended [Notification No. 76/2018 – Central Tax dated 31st December, 2018](#), namely:–

In the said notification, after the second proviso, the following proviso shall be inserted, namely: –

“Provided also that the amount of late fee payable under section 47 shall stand waived for the tax period as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to

furnish the returns in FORM GSTR-3B by the due date, but furnishes the said return according to the condition mentioned in the corresponding entry in column (4) of the said Table, namely:-

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Table

S.No.	Class of registered persons	Tax period	Condition
(1)	(2)	(3)	(4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	February, 2020, March, 2020 and April, 2020	If return in FORM GSTR-3B is furnished on or before the 24th day of June, 2020
2	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees five crores in the preceding financial year	February, 2020 and March, 2020 April, 2020	If return in FORM GSTR-3B is furnished on or before the 29th day of June, 2020 If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020
3.	Taxpayers having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year	February, 2020 March, 2020 April, 2020	If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020 If return in FORM GSTR-3B is furnished on or before the 3rd day of July, 2020 If return in FORM GSTR-3B is furnished on or before the 6th day of July, 2020."

[Notification No. 52/2020 – Central Tax 24th June, 2020](#) - The Government, on the recommendations of the Council, has amended [Notification No. 76/2018 – Central Tax dated 31st December, 2018](#), namely:-

In the said notification,-

(i) in the third proviso, for the Table, the following Table shall be substituted, namely : –

Table

S. No.	Class of registered persons	Tax period	Condition
(1)	(2)	(3)	(4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	February, 2020, March, 2020 and April, 2020	If return in FORM GSTR-3B is furnished on or before the 24th day of June, 2020
2.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020
		March, 2020	If return in FORM GSTR-3B is furnished on or before the 3rd day of July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 6th day of July, 2020
		May, 2020	If return in FORM GSTR-3B is furnished on or before the 12th day of September, 2020
		June, 2020	If return in FORM GSTR-3B is furnished on or before the 23rd day of September, 2020
		July, 2020	If return in FORM GSTR-3B is furnished on or before the 27th day of September, 2020

3.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020
		March, 2020	If return in FORM GSTR-3B is furnished on or before the 5th day of July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 9th day of July, 2020
		May, 2020	If return in FORM GSTR-3B is furnished on or before the 15th day of September, 2020
		June, 2020	If return in FORM GSTR-3B is furnished on or before the 25th day of September, 2020
		July, 2020	If return in FORM GSTR-3B is furnished on or before the 29th day of September, 2020

[Notification No. 57/2020 – Central Tax dated 30th June, 2020](#) effective from 25th day of June, 2020 - The Government, on the recommendations of the Council, has amended [Notification No. 76/2018 – Central Tax dated 31st December, 2018](#), namely:–

In the said notification, after the third proviso, the following provisos shall be inserted, namely:

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“Provided also that for the class of registered persons mentioned in column (2) of the Table of the above proviso, who fail to furnish the returns for the tax period as specified in column (3) of the said Table, according to the condition mentioned in the corresponding entry in column (4) of the said Table, but furnishes the said return till the 30th day of September, 2020, the total amount of late fee payable under section 47 of the said Act, shall stand waived which is

in excess of two hundred and fifty rupees and shall stand fully waived for those taxpayers where the total amount of central tax payable in the said return is nil:

Provided also that for the taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year, who fail to furnish the return in FORM GSTR-3B for the months of May, 2020 to July, 2020, by the due date but furnish the said return till the 30th day of September, 2020, the total amount of late fee under section 47 of the said Act, shall stand waived which is in excess of two hundred and fifty rupees and shall stand fully waived for those taxpayers where the total amount of central tax payable in the said return is nil.”.

[Notification No. 09/2021 – Central Tax dated 1st May, 2021](#) effective from 20th day of April, 2021 - The Government, on the recommendations of the Council, has amended [Notification No. 76/2018 – Central Tax dated 31st December, 2018](#), namely:–

In the said notification, after the seventh proviso, the following proviso shall be inserted, namely: –

“Provided also that the amount of late fee payable under section 47 shall stand waived for the period as specified in column (4) of the Table given below, for the tax period as specified in the corresponding entry in column (3) of the said Table, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the returns in FORM GSTR-3B by the due date, namely:-

Table

S. No.	Class of registered persons	Tax period	Period for which late fee waived
(1)	(2)	(3)	(4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	March, 2021 and April, 2021	Fifteen days from the due date of furnishing return
2.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under sub-section (1) of section 39	March, 2021 and April, 2021	Thirty days from the due date of furnishing return

3.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under proviso to sub-section (1) of section 39	January-March, 2021	Thirty days from the due date of furnishing return."
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[Notification No. 19/2021 – Central Tax dated 1st June, 2021](#) - The Government, on the recommendations of the Council, has amended [Notification No. 76/2018 – Central Tax dated 31st December, 2018](#), namely:—

In the said notification, -

(i) in the eighth proviso, with effect from the 20th day of May, 2021, for the Table, the following Table shall be substituted, namely: —

Table

S. No.	Class of registered persons	Tax period	Period for which late fee waived
(1)	(2)	(3)	(4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	March, 2021, April, 2021 and May, 2021	Fifteen days from the due date of furnishing return
2.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under sub-section (1) of section 39	March, 2021	Sixty days from the due date of furnishing return
		April, 2021	Forty-five days from the due date of furnishing return
		May, 2021	Thirty days from the due date of furnishing return
3	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year	January-March, 2021	Sixty days from the due date of furnishing return.";

	who are liable to furnish the return as specified under proviso to sub-section (1) of section 39		
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(ii) after the eighth proviso, the following provisos shall be inserted, namely: —

“Provided also that for the registered persons who failed to furnish the return in FORM GSTR-3B for the months /quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1 st day of June, 2021 to the 31st day of August, 2021, the total amount of late fee under section 47 of the said Act, shall stand waived which is in excess of five hundred rupees:

Provided also that where the total amount of central tax payable in the said return is nil, the total amount of late fee under section 47 of the said Act shall stand waived which is in excess of two hundred and fifty rupees for the registered persons who failed to furnish the return in FORM GSTR-3B for the months / quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1st day of June, 2021 to the 31st day of August, 2021:

Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onwards, as the case may be, shall stand waived which is in excess of an amount as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the returns in FORM GSTR-3B by the due date, namely: —

S. No.	Class of registered persons	Amount
(1)	(2)	(3)
1.	Registered persons whose total amount of central tax payable in the said return is nil	Two hundred and fifty rupees
2.	Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1	One thousand rupees
3.	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Two thousand and five hundred rupees".

[Notification No. 33/2021 – Central Tax dated 29th August, 2021](#) - The Government, on the recommendations of the Council, has amended [Notification No. 76/2018 – Central Tax dated 31st December, 2018](#), namely:–

In the said notification, in the ninth and tenth provisos, for the figures, letters and words —31st day of August, 2021^{II}, where ever they occur, the figures, letters and words —30th day of November, 2021^{II} shall be substituted.

[Notification No. 48/2019 – Central Tax dated 9th October, 2019](#) - The Central Government, on the recommendations of the Council, has amended the [Notification No. 41/2019 – Central Tax dated 31st August, 2019](#), namely:–

In the said notification, in the opening paragraph–

(a) in clause (ii), for the figures, letters and word “20th September”, the figures, letters and word “11th October” shall be inserted;

(b) after the clause (iv), the following clauses shall be inserted, namely: –

“(v) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as the said rules), for the month of August, 2019**, on or before the 11th October, 2019, for failure to furnish the said FORM GSTR-1 by the due date;

(vi) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, **for the month of July, 2019**, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;

(vii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules,

for the month of August, 2019, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;

(viii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B of the said rules, for the month of July, 2019**, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date;

(ix) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B of the said rules, for the month of August, 2019**, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date.”.

19.7.1.3 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-4

[Notification No. 73/2017 – Central Tax dated 29th December, 2017](#) - The Central Government, on the recommendations of the Council, has waived the amount of late fee payable under section 47 of the said Act, by any registered person for failure to furnish the return in FORM GSTR-4 by the due date, which is in excess of an amount of twenty five rupees for every day during which such failure continues:

Provided that where the total amount payable in lieu of central tax in the said return is nil, the amount of late fee payable under section 47 of the said Act, by any registered person for failure to furnish the said return by the due date shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

Further, [Notification No. 77/2018 – Central Tax dated 31st December, 2018](#) - The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification, after the first proviso, the following proviso shall be inserted, namely:–

“Provided further the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who failed to furnish the return in FORM GSTR-4 for the quarters from July, 2017 to September, 2018 by the due date but furnishes the said return between the period from 22nd December, 2018 to 31st March, 2019.”

Further, [Notification No 67/2020 – Central Tax dated 21st September, 2020](#) - The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification: -

after the second proviso, the following proviso shall be inserted, namely: –

“Provided also that late fee payable under section 47 of the said Act, shall stand waived which is in excess of two hundred and fifty rupees and shall stand fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who failed to furnish the return in FORM GSTR-4 for the quarters from July, 2017 to March, 2019 by the due date but furnishes the said return between the period from 22nd day of September, 2020 to 31st day of October, 2020.”

Further, [Notification No. 93/2020-Central Tax dated 22nd December, 2020](#) - The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification, after the third proviso, the following proviso shall be inserted, namely:

–

“Provided also that the late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20 under section 47 of the said Act, from the 1st day of November, 2020 till the 31st day of December, 2020 shall stand waived for the registered person whose principal place of business is in the Union Territory of Ladakh.”

Further, [Notification No. 21/2021 – Central Tax dated 1st June, 2021](#) – The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification, after the fourth proviso, the following proviso shall be inserted, namely:

—

“Provided also that the total amount of late fee payable under section 47 of the said Act for financial year 2021-22 onwards, by the registered persons who fail to furnish the return in FORM GSTR-4 by the due date, shall stand waived –

- (i) which is in excess of two hundred and fifty rupees where the total amount of central tax payable in the said return is nil;
- (ii) which is in excess of one thousand rupees for the registered persons other than those covered under clause (i).”.

Further, [Notification No. 07/2022 – Central Tax dated 26th May, 2022](#) - The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification, after the fifth proviso, the following proviso shall be inserted, namely:

–

“Provided also that the late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2021- 22 under section 47 of the said Act shall stand waived for the period from the 1st day of May, 2022 till the 30th day of June, 2022.”.

Further, [NOTIFICATION No. 12/2022 – Central Tax dated 5th July, 2022](#) - The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification, in the sixth proviso, for the figures, letters and words “30th day of June, 2022”, the figures, letters and words “28th day of July, 2022” shall be substituted.

Further, [Notification No. 02/2023 – Central Tax dated 31st March, 2023](#) - The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification, after the sixth proviso, the following proviso shall be inserted, namely:

—

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived which is in excess of two hundred and fifty rupees and shall stand fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who fail to furnish the return in FORM GSTR-4 for the quarters from July, 2017 to March 2019 or for the Financial years from 2019-20 to 2021-22 by the due date but furnish the said return between the period from the 1 st day of April, 2023 to the 30 th day of June, 2023.”

Further, [Notification No. 22/2023 – Central Tax dated 17th July, 2023](#) effective from 30.06.2023 - The Central Government, on the recommendations of the Council, has amended [Notification No. 73/2017 – Central Tax dated 29th December, 2017](#), namely:–

In the said notification, in the seventh proviso, for the words, letter and figure “30th day of June, 2023” the words, letter and figure “31st day of August, 2023” shall be substituted.

[Notification No. 41/2018 – Central Tax dated 4th September, 2018](#) - The Central Government, on the recommendations of the Council, has waived the late fee paid under section 47 of the said Act, by the following classes of taxpayers:-

- (i) the registered persons whose return in FORM GSTR-3B of the Central Goods and Services Tax Rules, 2017 for the month of October, 2017, was submitted but not filed on the common portal, after generation of the application reference number;
- (ii) the registered persons who have filed the return in FORM GSTR-4 of the Central Goods and Services Tax Rules, 2017 for the period October to December, 2017 by the due date but late fee was erroneously levied on the common portal;
- (iii) the Input Service Distributors who have paid the late fee for filing or submission of the return in FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017 for any tax period between the 1st day of January, 2018 and the 23rd day of January, 2018.

19.7.1.4 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-5

[Notification No. 5/2018 – Central Tax dated 23rd January, 2018](#) - The Central Government, on the recommendations of the Council, has waived the amount of late fee payable by any registered person for failure to furnish the return in **FORM GSTR5** by the due date under section 47 of the said Act, which is in excess of an amount of twenty five rupees for every day during which such failure continues:

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

19.7.1.5 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-5A

[Notification No. 6/2018 – Central Tax dated 23rd January, 2018](#) - - The Central Government, on the recommendations of the Council, has waived the amount of late fee payable by any registered person for failure to furnish the return in **FORM GSTR5A** by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that where the total amount of integrated tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

[Notification No. 13/2018 – Central Tax dated 7th March, 2018](#) - The Central Government, on the recommendations of the Council, has rescinded [Notification No. 6/2018 – Central Tax dated 23rd January, 2018](#), except as respects things done or omitted to be done before such rescission.

19.7.1.6 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-6

[Notification No. 7/2018 – Central Tax dated 23rd January, 2018](#) - The Central Government, on the recommendations of the Council, has waived the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR6 by the due date under section 47 of the said Act, which is in excess of an amount of twenty five rupees for every day during which such failure continues.

[Notification No. 41/2018 – Central Tax dated 4th September, 2018](#) - The Central Government, on the recommendations of the Council, has waived the late fee paid under section 47 of the said Act, by the following classes of taxpayers:-

- (i) the registered persons whose return in FORM GSTR-3B of the Central Goods and Services Tax Rules, 2017 for the month of October, 2017, was submitted but not filed on the common portal, after generation of the application reference number;
- (ii) the registered persons who have filed the return in FORM GSTR-4 of the Central Goods and Services Tax Rules, 2017 for the period October to December, 2017 by the due date but late fee was erroneously levied on the common portal;
- (iii) the Input Service Distributors who have paid the late fee for filing or submission of the return in FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017 for any tax period between the 1st day of January, 2018 and the 23rd day of January, 2018.

[Notification No. 41/2019 – Central Tax dated 31st August, 2019](#) - In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the

recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act, by the following class of taxpayers: –

(i) the registered persons whose principal place of business is in the district mentioned in column (3) of the Table below, of the State as mentioned in column (2) of the said Table, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019;

(ii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019;

(iii) the Input Service Distributors whose principal place of business is in the district mentioned in column (3) of the above said Table, of the State as mentioned in column (2) of the said Table, who have furnished, electronically through the common portal, return in **FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019;

(iv) the Input Service Distributors whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-6 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2019**, on or before the 20th September, 2019.

Table

Sl. No.	Name of State	Name of District
(1)	(2)	(3)
1.	Bihar	Araria, Kishanganj, Madhubani, East Champaran, Sitamarhi, Sheohar, Supaul, Darbhanga, Muzaffarpur, Saharsa, Katihar, Purnia, West Champaran.
2.	Gujarat	Vadodara.
3.	Karnataka	Bagalkot, Ballari, Belagavi, Chamarajanagar, Chikkamagalur, Dakshina Kannada, Davanagere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi, Kodagu, Koppal, Mandya, Mysuru, Raichur, Shivamogga, Udupi, Uttara Kannada, Vijayapura, Yadgir.

4.	Kerala	Idukki, Malappuram, Wayanad, Kozhikode.
5.	Maharashtra	Kolhapur, Sangli, Satara, Ratnagiri, Sindhudurg, Palghar, Nashik, Ahmednagar.
6.	Odisha	Balangir, Sonepur, Kalahandi, Nuapada, Koraput, Malkangiri, Rayagada, Nawarangpur.
7.	Uttarakhand	Uttarkashi and Chamoli

19.7.1.7 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-7

[Notification No. 48/2019 – Central Tax dated 9th October, 2019](#) - The Central Government, on the recommendations of the Council, has amended the [Notification No. 41/2019 – Central Tax dated 31st August, 2019](#), namely:–

In the said notification, in the opening paragraph–

(a) in clause (ii), for the figures, letters and word “20th September”, the figures, letters and word “11th October” shall be inserted;

(b) after the clause (iv), the following clauses shall be inserted, namely: –

“(v) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in **FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as the said rules), for the month of August, 2019**, on or before the 11th October, 2019, for failure to furnish the said FORM GSTR-1 by the due date;

(vi) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, **for the month of July, 2019**, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;

(vii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act,

who have furnished electronically through the common portal, return in **FORM GSTR-7** of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, **for the month of August, 2019**, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;

(viii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B of the said rules, for the month of July, 2019**, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date;

(ix) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in **FORM GSTR-3B of the said rules, for the month of August, 2019**, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date.”.

[Notification No. 22/2021 – Central Tax dated 1st June, 2021](#) - The Government, on the recommendations of the Council, has waived the amount of late fee payable under section 47 of the said Act by any registered person, required to deduct tax at source under the provisions of section 51 of the said Act, for failure to furnish the return in **FORM GSTR-7** for the month of June, 2021 onwards, by the due date, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that the total amount of late fee payable under section 47 of the said Act by such registered person for failure to furnish the return in FORM GSTR-7 for the month of June, 2021 onwards, by the due date, shall stand waived which is in excess of an amount of one thousand rupees.

19.7.1.8 Departmental Notifications – Waiver of late fee for delay in furnishing outward statement in FORM GSTR-9 and FORM GSTR-9C

[Notification No. 07/2023 – Central Tax dated 31st March, 2023](#) - The Central Government, on the recommendations of the Council, has waived the amount of late fee referred to in section 47 of the said Act in respect of the return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards, which is in excess of amount as specified in Column (3) of the Table below, for the classes of registered persons mentioned in the corresponding entry in Column (2) of the Table below, who fails to furnish the return by the due date, namely:—

Table

Serial Number	Class of registered persons	Amount
(1)	(2)	(3)
1.	Registered persons having an aggregate turnover of up to five crore rupees in the relevant financial year.	Twenty-five rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of turnover in the State or Union territory.
2.	Registered persons having an aggregate turnover of more than five crores rupees and up to twenty crore rupees in the relevant financial year.	Fifty rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of turnover in the State or Union territory.

Provided that for the registered persons who fail to furnish the return under section 44 of the said Act by the due date for any of the financial years 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22, but furnish the said return between the period from the 1st day of April, 2023 to the 30th day of June, 2023, the total amount of late fee under section 47 of the said Act payable in respect of the said return, shall stand waived which is in excess of ten thousand rupees.

19.7.1.9 Departmental Notifications – Waiver of late fee for not furnishing FORM GSTR-10, subject to the condition that the returns are filled between 22.09.2020 to 31.12.2020

[Notification No. 68/2020 – Central Tax dated 21st September, 2020](#) - The Government, on the recommendations of the Council, has waived the amount of late fee payable under section 47 of the said Act which is in excess of two hundred and fifty rupees, for the registered persons who fail to furnish the return in FORM GSTR-10 by the due date but furnishes the said return between the period from 22nd day of September, 2020 to 31st day of December, 2020.

[Notification No. 08/2023 – Central Tax dated 31st March, 2023](#) - The Central Government, on the recommendations of the Council, has waived the amount of late fee referred to in section 47 of the Act, which is in excess of five hundred rupees for the registered persons who fail to furnish the final return in FORM GSTR-10 by the due date but furnish the said return between the period from the 1 st day of April, 2023 to the 30th day of June, 2023.

19.7.2.1 Departmental Clarifications - Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19) - [Circular No. 136/06/2020-GST dated 3rd April, 2020](#)

The spread of Novel Corona Virus (COVID-19) across many countries of the world, including India, has caused immense loss to the lives of people and resultantly impacted the trade and industry. In view of the emergent situation and challenges faced by taxpayers in meeting the

compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), Government has announced various relief measures relating to statutory and regulatory compliance matters across sectors.

2. Government has issued following notifications in order to provide relief to the taxpayers:

S. No.	Notification	Remarks
1.	Notification No. 30/2020- Central Tax, dated 03.04.2020	Amendment in the CGST Rules so as to allow taxpayers opting for the Composition Scheme for the financial year 2020-21 to file their option in FORM CMP-02 till 30th June, 2020 and to allow cumulative application of the condition in rule 36(4) for the months of February, 2020 to August, 2020 in the return for tax period of September, 2020.
2.	Notification No. 31/2020- Central Tax, dated 03.04.2020	A lower rate of interest of NIL for first 15 days after the due date of filing return in FORM GSTR-3B and @ 9% thereafter is notified for those registered persons having aggregate turnover above Rs. 5 Crore and NIL rate of interest is notified for those registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year, for the tax periods of February, 2020 to April, 2020. This lower rate of interest shall be subject to condition that due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.
3.	Notification No. 32/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing returns in FORM GSTR-3B for the tax periods of February, 2020 to April, 2020 provided the return in FORM GSTR-3B by the date as specified in the Notification.
4.	Notification No. 33/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing the statement of outward supplies in FORM GSTR-1 for taxpayers for the tax periods March, 2020 to May, 2020 and for quarter ending 31st March 2020 if the same are furnished on or before 30th day of June, 2020.
5.	Notification No. 34/2020- Central Tax, dated 03.04.2020	Extension of due date of furnishing statement, containing the details of payment of self-assessed tax in FORM GST CMP- 08 for the quarter ending 31st March, 2020 till the 7th day of July, 2020 and filing FORM GSTR-4 for the financial year ending 31st March, 2020 till the 15th day of July, 2020.
6.	Notification No. 35/2020- Central Tax, dated 03.04.2020	Notification under section 168A of CGST Act for extending due date of compliance which falls during the period from the 20th day of March, 2020 to the 29th day of June, to 30th day of June, 2020.

3. Various issues relating to above mentioned notifications have been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies each of these issues as under:-

S. No.	Issue	Clarification								
1.	What are the measures that have been specifically taken for taxpayers who have opted to pay tax under section 10 the CGST Act or those availing the option to pay tax under the notification No. 02/2019- Central Tax (Rate) , dated the 7th March, 2019?	<p>1. The said class of taxpayers, as per the notification No. 34/2020- Central Tax, dated 03.04.2020, have been allowed, to, —</p> <table><tr><td>(i)</td><td>furnish the statement of details of payment of self- assessed tax in FORM GST CMP-08 for the quarter January to March, 2020 by 07.07.2020; and</td></tr><tr><td>(ii)</td><td>furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.</td></tr></table> <p>2. In addition to the above, taxpayers opting for the composition scheme for the financial year 2020-21, have been allowed, as per the notification No. 30/2020- Central Tax, dated 03.04.2020, to, —</p> <table><tr><td>(i)</td><td>file an intimation in FORM GST CMP-02 by 30.06.2020; and</td></tr><tr><td>(ii)</td><td>furnish the statement in FORM GST ITC-03 till 31.07.2020.</td></tr></table>	(i)	furnish the statement of details of payment of self- assessed tax in FORM GST CMP-08 for the quarter January to March, 2020 by 07.07.2020; and	(ii)	furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.	(i)	file an intimation in FORM GST CMP-02 by 30.06.2020; and	(ii)	furnish the statement in FORM GST ITC-03 till 31.07.2020.
(i)	furnish the statement of details of payment of self- assessed tax in FORM GST CMP-08 for the quarter January to March, 2020 by 07.07.2020; and									
(ii)	furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.									
(i)	file an intimation in FORM GST CMP-02 by 30.06.2020; and									
(ii)	furnish the statement in FORM GST ITC-03 till 31.07.2020.									
2.	Whether due date of furnishing FORM GSTR-3B for the months of February, March and April, 2020 has been extended ?	<p>1. The due dates for furnishing FORM GSTR-3B for the months of February, March and April, 2020 has not been extended through any of the notifications referred in para 2 above.</p> <p>2. However, as per notification No. 31/2020- Central Tax, dated 03.04.2020, NIL rate of interest for first 15 days after the due date of filing return in FORM GSTR-3B and reduced rate of interest @ 9% thereafter has been notified for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore. For those registered persons having turnover up to Rs. 5 Crore in the preceding financial year, NIL rate of interest has also been notified.</p> <p>3. Further, vide notification as per the notification No. 32/2020- Central Tax, dated 03.04.2020, Government has waived the late fees for delay in furnishing the return in FORM GSTR-3B for the months of February, March and April, 2020.</p> <p>4. The lower rate of interest and waiver of late fee would be available only if due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.</p>								
3.	What are the conditions attached for availing the reduced rate of interest for the months of February, March and April, 2020, for a registered	<p>1. As clarified at sl. no. (2) above, the due date for furnishing the return remains unchanged; i.e. 20th day of the month succeeding such month. The rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months.</p> <p>2. The reduced rate of interest is subject to the condition that the registered person must furnish the returns in FORM GSTR-3B on or before 24th day of June, 2020.</p> <p>3. In case the returns in FORM GSTR-3B for the said months are not furnished on or before 24th day of June, 2020 then interest at 18% per annum shall be payable from the due date of return, till the date on</p>								

	person whose aggregate turnover in the preceding financial year is above Rs. 5 Crore?	which the return is filed. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.																														
4.	How to calculate the interest for late payment of tax for the months of February, March and April, 2020 for a registered person whose aggregate turnover in preceding financial year is above Rs. 5 Crore?	<p>1. As explained above, the rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months. The same can be explained through an illustration.</p> <p><i>Illustration:-</i> Calculation of interest for delayed filing of return for the month of March, 2020 (due date of filing being 20.04.2020) may be illustrated as per the below Table:</p> <table><tr><th>S. No.</th><th>Date of filing GSTR-3B</th><th>No. of days of delay</th><th>Whether condition for reduced interest is fulfilled?</th><th>Interest</th></tr><tr><td>1</td><td>02.05.2020</td><td>11</td><td>Yes</td><td>Zero interest</td></tr><tr><td>2</td><td>20.05.2020</td><td>30</td><td>Yes</td><td>Zero interest for 15 days + interest rate @9% p.a. for 15 days</td></tr><tr><td>3</td><td>20.06.2020</td><td>61</td><td>Yes</td><td>Zero interest for 15 days + interest rate @9% p.a. for 46 days</td></tr><tr><td>4</td><td>24.06.2020</td><td>65</td><td>Yes</td><td>Zero interest for 15 days + interest rate @9% p.a. for 50 days</td></tr><tr><td>5</td><td>30.06.2020</td><td>71</td><td>NO</td><td>Interest rate @18% p.a. for 71 days (i.e. no benefit of reduced interest)</td></tr></table>	S. No.	Date of filing GSTR-3B	No. of days of delay	Whether condition for reduced interest is fulfilled?	Interest	1	02.05.2020	11	Yes	Zero interest	2	20.05.2020	30	Yes	Zero interest for 15 days + interest rate @9% p.a. for 15 days	3	20.06.2020	61	Yes	Zero interest for 15 days + interest rate @9% p.a. for 46 days	4	24.06.2020	65	Yes	Zero interest for 15 days + interest rate @9% p.a. for 50 days	5	30.06.2020	71	NO	Interest rate @18% p.a. for 71 days (i.e. no benefit of reduced interest)
S. No.	Date of filing GSTR-3B	No. of days of delay	Whether condition for reduced interest is fulfilled?	Interest																												
1	02.05.2020	11	Yes	Zero interest																												
2	20.05.2020	30	Yes	Zero interest for 15 days + interest rate @9% p.a. for 15 days																												
3	20.06.2020	61	Yes	Zero interest for 15 days + interest rate @9% p.a. for 46 days																												
4	24.06.2020	65	Yes	Zero interest for 15 days + interest rate @9% p.a. for 50 days																												
5	30.06.2020	71	NO	Interest rate @18% p.a. for 71 days (i.e. no benefit of reduced interest)																												
5.	What are the conditions attached for availing the NIL rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in preceding financial year is up to Rs. 5 Crore?	<p>1. As clarified at sl.no. (2) above, the due date for furnishing the return remains unchanged. The rate of interest has been notified as Nil for the said months.</p> <p>2. The conditions for availing the NIL rate of interest is that the registered person must furnish the returns in FORM GSTR-3B on or before the date as mentioned in the notification No. 31/2020- Central Tax, dated 03.04.2020.</p> <p>3. In case the return for the said months are not furnished on or before the date mentioned in the notification then interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed as explained in the illustration at sl.no (4) above, against entry 5. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.</p>																														

6.	Whether the due date of furnishing the statement of outward supplies in FORM GSTR-1 under section 37 has been extended for the months of February, March and April 2020?	Under the provisions of section 128 of the CGST Act, in terms of notification No. 33/2020- Central Tax, dated 03.04.2020 , late fee leviable under section 47 has been waived for delay in furnishing the statement of outward supplies in FORM GSTR-1 under Section 37, for the tax periods March, 2020, April 2020, May, 2020 and quarter ending 31st March 2020 if the same are furnished on or before the 30th day of June, 2020.
7.	Whether restriction under rule 36(4) of the CGST Rules would apply during the lockdown period?	Vide notification No. 30/2020- Central Tax, dated 03.04.2020 , a proviso has been inserted in CGST Rules 2017 to provide that the said condition shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR-3B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR-3B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).
8.	What will be the status of e-way bills which have expired during the lockdown period?	In terms of notification No. 35/2020- Central Tax, dated 03.04.2020 , Issued under the provisions of 168A of the CGST Act, where the validity of an e-way bill generated under rule 138 of the CGST Rules expires during the period 20th day of March, 2020 to 15th day of April, 2020, the validity period of such e-way bill has been extended till the 30th day of April, 2020.
9.	What are the measures that have been specifically taken for taxpayers who are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020 , the said class of taxpayers have been allowed to furnish the respective returns specified in sub-sections (3), (4) and (5) of section 39 of the said Act, for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020.
10.	What are the measures that have been specifically taken for taxpayers who are required to collect tax at source under section 52?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020 , the said class of taxpayers have been allowed to furnish the statement specified in section 52, for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020.

11.	The time limit for compliance of some of the provisions of the CGST Act is falling during the lock-down period announced by the Government. What should the taxpayer do?	Vide notification No. 35/2020- Central Tax, dated 03.04.2020 , issued under the provisions of 168A of the CGST Act, except for few provisions covered in exclusion clause, any time limit for completion or compliance of any action which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, has been extended to 30th day of June, 2020.
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19.7.2.2 Departmental Clarifications - Clarification on refund related issues- [Circular No. 139/09/2020-GST dated 10th June, 2020](#)

Various representations have been received seeking clarification on the issue relating to refund of accumulated ITC in respect of invoices whose details are not reflected in the FORM GSTR-2A of the applicant. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

2. [Circular No.135/05/2020 – GST dated the 31st March, 2020](#) states that:

“5. Guidelines for refunds of Input Tax Credit under Section 54(3)

5.1 In terms of para 36 of [circular No. 125/44/2019-GST dated 18.11.2019](#), the refund of ITC availed in respect of invoices not reflected in FORM GSTR-2A was also admissible and copies of such invoices were required to be uploaded. However, in wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017 vide [notification No. 49/2019-GST dated 09.10.2019](#), various references have been received from the field formations regarding admissibility of refund of the ITC availed on the invoices which are not reflecting in the FORM GSTR-2A of the applicant.

5.2 The matter has been examined and it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Accordingly, para 36 of the [circular No. 125/44/2019-GST, dated 18.11.2019](#) stands modified to that extent.”

3.1 Representations have been received that in some cases, refund sanctioning authorities have rejected the refund of accumulated ITC in respect of ITC availed on Imports, ISD invoices, RCM etc. citing the above-mentioned Circular on the basis that the details of the said invoices/ documents are not reflected in FORM GSTR-2A of the applicant.

3.2 In this context it is noteworthy that before the issuance of [Circular No. 135/05/2020- GST dated 31st March, 2020](#), refund was being granted even in respect of credit availed on the strength of missing invoices (not reflected in FORM GSTR-2A) which were uploaded by the applicant along with the refund application on the common portal. However, vide [Circular](#)

[No.135/05/2020 – GST dated the 31st March, 2020](#), the refund related to these missing invoices has been restricted. Now, the refund of accumulated ITC shall be restricted to the ITC available on those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.

4. The aforesaid circular does not in any way impact the refund of ITC availed on the invoices / documents relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) etc.. It is hereby clarified that the treatment of refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will continue to be same as it was before the issuance of [Circular No. 135/05/2020- GST dated 31st March, 2020](#).

19.8 Detention, seizure and release of goods and conveyances in transit. [Section 129]

Section 129(1)	01.07.2017 to 31.12.2021	Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,— (a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty; (b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty; (c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:
	01.01.2022 to till date	Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,— ¹ [(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is

		<p>less, where the owner of the goods comes forward for payment of such penalty;</p> <p>(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;]</p> <p>(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:</p>
		<p>1. Substituted Clauses (a) and (b) w.e.f. 1st day of January, 2022 vide Section 117 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39 / 2021 – Central Tax dated 21st December, 2021</p>
First Proviso	01.07.2017 to till date	Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.
Section 129(2)	01.07.2017 to 31.12.2021	The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.
	01.01.2022 to till date	<p>¹[*****]</p> <p>1. Omitted sub-section (2) w.e.f. 1st day of January, 2022 vide Section 117 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021,</p>
Section 129(3)	01.07.2017 to 31.12.2021	The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).
	01.01.2022 to till date	<p>¹[The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).]</p> <p>1. Substituted sub-section (3) w.e.f. 1st day of January, 2022 vide Section 117 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021,</p>

Section 129(4)	01.07.2017 to 31.12.2021	No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.
	01.01.2022 to till date	<p>¹[No penalty] shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.</p> <div> <p>1. Substituted for the words "No tax, interest or penalty", w.e.f. 1st day of January, 2022 vide Section 117 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021.</p> </div>
Section 129(5)	01.07.2017 to till date	On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.
Section 129(6)	01.07.2017 to 31.01.2019	<p>Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:</p> <p>Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.</p>
	01.02.2019 to 31.12.2021	<p>Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within ¹[fourteen days] of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:</p> <p>Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of ¹[fourteen days] may be reduced by the proper officer.</p> <div> <p style="text-align: center;">Notes</p> <p>1 Substituted for the words "seven days", w.e.f. 01.02.2019 vide Section 27 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax Dated 29th January, 2019.</p> <p>2. Substituted for the words "seven days", w.e.f. 01.02.2019 vide Section 27 of the Central Goods and Services Tax (Amendment) Act,</p> </div>

		2018 which comes into force vide Notification No. 02/2019 – Central Tax Dated 29th January, 2019.
	01.01.2022 to till date	<p>¹[Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):</p> <p>Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:</p> <p>Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.]</p> <div> <p>1. Substituted for sub-section (6) w.e.f. 1st day of January, 2022 vide Section 117 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021,</p> </div>

19.8.1.1 Departmental Clarifications - Proper officer relating to provisions other than Registration and Composition under the Central Goods and Services Tax Act, 2017 - [Circular No. 3/3/2017-GST, dated 5th July, 2017](#)

In exercise of the powers conferred by clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, has issued [Circular No. 3/3/2017-GST, dated 5th July, 2017](#) to assign the officers mentioned in Column (2) of the Table below, the functions other than Registration and Composition as the proper officers in relation to the various sections of

the Central Goods and Services Tax Act, 2017 or the rules made thereunder given in the corresponding entry in Column (3) of the said Table:-

Table

S. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
1.	Principal Commissioner/ Commissioner of Central Tax	i. Sub- section (7) of Section 67 ii. Proviso to Section 78
2.	Additional or Joint Commissioner of Central Tax	i. Sub- sections (1), (2), (5) and (9) of Section 67 ii. Sub-section (1) and (2) of Section 71 iii. Proviso to section 81 iv. Proviso to sub-section (6) of Section 129 v. Sub-rules (1),(2),(3) and (4) of Rule 139 vi. Sub-rule (2) of Rule 140
3.	Deputy or Assistant Commissioner of Central Tax	i. Sub-sections (5), (6), (7) and (10) of Section 54 ii. Sub-sections (1), (2) and (3) of Section 60 iii. Section 63 iv. Sub-section (1) of Section 64 v. Sub-section (6) of Section 65 vi. Sub-sections (1), (2), (3), (5), (6), (7), (9), (10) of Section 74 vii. Sub-sections (2), (3), (6) and (8) of Section 76 viii. Sub-section (1) of Section 79 ix. Section 123 x. Section 127 xi. Sub-section (3) of Section 129

		<p>xii. Sub- sections (6) and (7) of Section 130</p> <p>xiii. Sub- section (1) of Section 142</p> <p>xiv. Sub-rule (2) of Rule 82</p> <p>xv. Sub-rule (4) of Rule 86</p> <p>xvi. Explanation to Rule 86</p> <p>xvii. Sub-rule (11) of Rule 87</p> <p>xviii. Explanation 2 to Rule 87</p> <p>xix. Sub-rules (2) and (3) of Rule 90</p> <p>xx. Sub-rules (2) and (3) of Rule 91</p> <p>xxi. Sub-rules(1), (2), (3), (4) and (5) of Rule 92</p> <p>xxii. Explanation to Rule 93</p> <p>xxiii. Rule 94</p> <p>xxiv. Sub-rule (6) of Rule 96</p> <p>xxv. Sub-rule (2) of Rule 97</p> <p>xxvi. Sub-rule (2), (3), (4), (5) and (7) of Rule 98</p> <p>xxvii. Sub-rule (2) of Rule 100</p> <p>xxviii. Sub-rules (2), (3), (4) and (5) of Rule 101</p> <p>xxix. Rule 143</p> <p>xxx. Sub-rules (1), (3), (4), (5), (6) and (7) of Rule 144</p> <p>xxxi. Sub-rules (1) and (2) of Rule 145</p> <p>xxxii. Rule 146</p> <p>xxxiii. Sub-rules (1), (2), (3), (5), (6), (7), (8), (10),(11), (12), (14) and (15) of Rule 147</p> <p>xxxiv. Sub-rules(1),(2) and (3) of Rule 151</p>
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		xxxv. Rule 152 xxxvi. Rule 153 xxxvii. Rule 155 xxxviii. Rule 156
4.	Superintendent of Central Tax	i. Sub- section (6) of Section 35 ii. Sub-sections (1) and (3) of Section 61 iii. Sub-section (1) of Section 62 iv. Sub-section (7) of Section 65 v. Sub-section (6) of Section 66 vi. Sub-section (11) of Section 67 vii. Sub-section (1) of Section 70 viii. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 73 ix. Sub-rule (6) of Rule 56 x. Sub-rules (1), (2) and (3) of Rule 99 xi. Sub-rule (1) of Rule 132 xii. Sub-rule (1), (2), (3) and (7) of Rule 142 xiii. Rule 150
5.	Inspector of Central Tax	i. Sub-section (3) of Section 68 ii. Sub- rule (17) of Rule 56 iii. Sub- rule (5) of Rule 58

19.8.1.2 Departmental Clarifications - Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances — [Circular No. 41/15/2018-GST dated 13th April, 2018](#)

Sub-section (1) of section 68 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance

shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the CGST rules prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.

2. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the CGST Act, hereby issues the following instructions:

(a) The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.

(b) The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending EWBVER to the mobile number 77382 99899 (For e.g. EWBVER 120100231897).

(c) For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the CGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the CGST Act vide [Circular No. 3/3/2017 – GST, dated 05.07.2017](#).

(d) Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in FORM GST MOV01. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in FORM GST MOV-02, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the

goods. The proper officer shall, within twenty four hours of the aforementioned issuance of FORM GST MOV-02, prepare a report in Part A of FORM GST EWB-03 and upload the same on the common portal.

(e) Within a period of three working days from the date of issue of the order in FORM GST MOV-02, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in FORM GST MOV-03 from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

(f) On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in FORM GST MOV-04 and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the inspection in Part B of FORM GST EWB-03 within three days of such physical verification/inspection.

(g) Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in FORM GST MOV-05 and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in FORM GST MOV-06 and a notice in FORM GST MOV-07 in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.

(h) Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in FORM GST MOV-05. Further, the order in FORM GST MOV-09 shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(i) Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in FORM GST MOV-05, after obtaining a bond in FORM GST MOV-08 along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act. The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.

(j) Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in FORM GST MOV-09, quantifying the tax and penalty payable. On payment of such tax and

penalty, the goods and conveyance shall be released forthwith by an order in FORM GST MOV-05. The order in FORM GST MOV-09 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(k) In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

(l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in FORM GST MOV-10. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.

(m) No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.

(n) An order of confiscation of goods shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in FORM GST MOV-11, the order in FORM GST MOV-09 passed earlier with respect to the said goods shall be withdrawn.

(o) An order of confiscation of conveyance shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the Central Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(p) The order referred to in clauses (n) and (o) above may be passed as a common order in the said FORM GST MOV-11.

(q) In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in FORM GST MOV11, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.

(r) Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.

(s) Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.

(t) The procedure narrated above shall be applicable mutatis mutandis for an order or proceeding under the IGST Act, 2017.

(u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.

(v) A summary of every order in FORM GST MOV-09 and FORM GST MOV-11 shall be uploaded electronically in FORM GST-DRC-07 on the common portal.

3. The format of [FORMS GST MOV-01 to GST MOV-11](#) are annexed to this Circular.

19.8.1.3 Departmental Clarifications - Modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in [Circular No. 41/15/2018-GST dated 13th April, 2018](#) - [Circular No. 49/23/2018-GST dated 21st June, 2018](#)

[Circular No. 41/15/2018-GST dated 13th April, 2018](#) was issued to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

2. In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, hereby issues the following modifications to the said Circular:-

(i) In para 2 (e) of the said Circular, the expression “three working days” may be replaced by the expression “three days”;

(ii) The statement after paragraph 3 in FORM GST MOV-05 should read as: "In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at ____ AM/PM."

3.0 Further, it is stated that as per rule 138C (2) of the Central Goods and Services Tax Rules, 2017, where the physical verification of goods being transported on any conveyance has been done during transit at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and vice-versa, doubts have been raised as to the procedure to be followed in such situations.

3.1 In this regard, it is clarified that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.

3.2 Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

Illustration: Where a conveyance carrying twenty-five consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of twenty consignments, but is unable to produce the same with respect to the remaining five consignments, detention/confiscation can be made only with respect to the five consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

19.8.1.4 Departmental Clarifications - Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in [Circular No. 41/15/2018-GST dated 13th April, 2018](#) and [Circular No. 49/23/2018-GST dated 21st June, 2018](#)-[Circular No. 64/38/2018-GST dated 14th September, 2018](#)

Kind attention is invited to [Circular No. 41/15/2018-GST dated 13th April, 2018](#) as amended by [Circular No. 49/23/2018-GST dated 21st June, 2018](#) vide which the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances was specified.

2. Various representations have been received regarding imposition of penalty in case of minor discrepancies in the details mentioned in the e-way bill although there are no major lapses in the invoices accompanying the goods in movement. The matter has been examined. In order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') hereby clarifies the said issue hereunder.

3. Section 68 of the CGST Act read with rule 138A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') requires that the person in charge of a conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry and a valid e-way bill in physical or electronic form for verification. In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable. Further, it may be noted that the non-furnishing of information in Part B of FORM GST EWB-01 amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of upto fifty kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be.

4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- d) Error in one or two digits of the document number mentioned in the e-way bill;
- e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- f) Error in one or two digits/characters of the vehicle number.

6. In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

19.8.1.5 Departmental Clarifications - Changes in Circulars issued earlier under the CGST Act, 2017- [Circular No. 88/07/2019-GST dated 1st February, 2019](#)

The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the CGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

5 Circular No. 41/15/2018 dated 13.04.2018

This circular is revised in view of the amendment carried out in section 129 of the CGST Act, 2017 vide section 27 of the CGST (Amendment) Act, 2018 allowing 14 days for owner/transporter to pay tax/penalty for seized goods. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

5.1 Original Para 2(k)

In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

5.2 Amended Para 2(k)

In case the proposed tax and penalty are not paid within fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

5.3 Further, FORM GST MOV-08 and FORM GST MOV-09, annexed to the circular are revised as below:

FORM GST MOV-08 (para 4)

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within fourteen days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

FORM GST MOV-09 (para 10)

You are hereby directed to make the payment forthwith/not later than fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated

19.8.1.6 Departmental Clarifications - Clarification on certain issues (sale by government departments to unregistered person; levability of penalty under section 73(11) of the CGST Act; rate of tax in case of debit notes / credit notes issued under section 142(2) of the CGST Act; applicability of [notification No. 50/2018-Central Tax](#); valuation methodology in case of TCS under Income Tax Act and definition of owner of goods) related to GST- [Circular No. 76/50/2018-GST dated 31st December, 2018](#)

Various representations have been received seeking clarification on certain issues under the GST laws. In order to clarify these issues and to ensure uniformity of implementation across field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") hereby clarifies the issues as below:

Sl. No.	Issue	Clarification
1.	Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?	<p>1. It may be noted that intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST.</p> <p>2. Vide Notification No. 36/2017-Central Tax (Rate) and Notification No. 37/2017-Integrated Tax (Rate) both dated 13.10.2017, it has been notified that intra-State and inter-State supply respectively of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by the Central Government, State Government, Union territory or a local authority to any registered person, would be subject to GST on reverse charge basis as per which tax is payable by the recipient of such supplies.</p> <p>3. A doubt has arisen about taxability of intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority to an unregistered person.</p>

		<p>4. It was noted that such supply to an unregistered person is also a taxable supply under GST but is not covered under notification No. 36/2017-Central Tax (Rate) and notification No. 37/2017- Integrated Tax (Rate) both dated 13.10.2017.</p> <p>5. In this regard, it is clarified that the respective Government departments (i.e. Central Government, State Government, Union territory or a local authority) shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act.</p>
2.	Whether penalty in accordance with section 73 (11) of the CGST Act should be levied in cases where the return in FORM GSTR-3B has been filed after the due date of filing such return?	<p>1. As per the provisions of section 73(11) of the CGST Act, penalty is payable in case self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.</p> <p>2. It may be noted that a show cause notice (SCN for short) is required to be issued to a person where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised for any reason under the provisions of section 73(1) of the CGST Act. The provisions of section 73(11) of the CGST Act can be invoked only when the provisions of section 73 are invoked.</p> <p>3. The provisions of section 73 of the CGST Act are generally not invoked in case of delayed filing of the return in FORM GSTR-3B because tax along with applicable interest has already been paid but after the due date for payment of such tax. It is accordingly clarified that penalty under the provisions of section 73(11) of the CGST Act is not payable in such cases. It is further clarified that since the tax has been paid late in contravention</p>

		<p>of the provisions of the CGST Act, a general penalty under section 125 of the CGST Act may be imposed after following the due process of law.</p>
3.	In case a debit note is to be issued under section 142(2)(a) of the CGST Act or a credit note under section 142(2)(b) of the CGST Act, what will be the tax rate applicable – the rate in the pre-GST regime or the rate applicable under GST?	<p>1. It may be noted that as per the provisions of section 142(2) of the CGST Act, in case of revision of prices of any goods or services or both on or after the appointed day (i.e., 01.07.2017), a supplementary invoice or debit/credit note may be issued which shall be deemed to have been issued in respect of an outward supply made under the CGST Act.</p> <p>2. It is accordingly clarified that in case of revision of prices, after the appointed date, of any goods or services supplied before the appointed day thereby requiring issuance of any supplementary invoice, debit note or credit note, the rate as per the provisions of the GST Acts (both CGST and SGST or IGST) would be applicable.</p>
4.	Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of notification No. 50/2018-Central Tax dated 13.09.2018 .	<p>1. A doubt has arisen about the applicability of long line mentioned in clause (a) of notification No. 50/2018- Central Tax dated 13.09.2018.</p> <p>2. It is clarified that the long line written in clause (a) in notification No. 50/2018- Central Tax dated 13.09.2018 is applicable to both the items (i) and (ii) of clause (a) of the said notification. Thus, an authority or a board or any other body whether set up by an Act of Parliament or a State Legislature or established by any Government with fifty-one per cent. or more participation by way of equity or control, to carry out any function would only be liable to deduct tax at source.</p> <p>3. In other words, the provisions of section 51 of the CGST Act are applicable only to such authority or</p>

		<div> <div>a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which fifty one per cent. or more participation by way of equity or control is with the Government.</div> </div>
5.	What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?	<div> <div>1. Section 15(2) of CGST Act specifies that the value of supply shall include “any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.”</div> <div>2. It is clarified that as per the above provisions, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS.</div> </div>
6.	Who will be considered as the 'owner of the goods' for the purposes of section 129(1) of the CGST Act?	It is hereby clarified that if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner. If the invoice or any other specified document is not accompanying the consignment of goods, then in such cases, the proper officer should determine who should be declared as the owner of the goods.

19.9 Confiscation of goods or conveyances and levy of penalty. [Section 130]

Section 130(1)	01.07.2017 to 31.12.2021	<p>Notwithstanding anything contained in this Act, if, any person—</p> <ul style="list-style-type: none"> (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (ii) does not account for any goods on which he is liable to pay tax under this Act; or (iii) supplies any goods liable to tax under this Act without having applied for registration; or (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
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		<p>(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,</p> <p>then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.</p>
	01.01.2022 to till date	<p>¹[Where] any person—</p> <p>(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(ii) does not account for any goods on which he is liable to pay tax under this Act; or</p> <p>(iii) supplies any goods liable to tax under this Act without having applied for registration; or</p> <p>(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or</p> <p>(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,</p> <p>then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Substituted for the words “Notwithstanding anything contained in this Act, if”, w.e.f. 1st day of January, 2022 vide Section 118 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021</p> </div>
Section 130(2)	01.07.2017 to till date	Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:
First Proviso	01.07.2017 to till date	Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:
Second Proviso	01.07.2017 to 31.12.2021	Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

	01.01.2022 to till date	<p>Provided further that the aggregate of such fine and penalty leviable shall not be less than the ¹[penalty equal to hundred per cent. of the tax payable on such goods:]</p> <div> <p>1. Substituted for the words, brackets and figures “amount of penalty leviable under sub-section (1) of section 129”, w.e.f. 1st day of January, 2022 vide Section 118 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021.</p> </div>
Third Proviso	01.07.2017 to till date	<p>Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.</p>
Section 130(3)	01.07.2017 to 31.12.2021	Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.
	01.01.2022 to till date	<p>¹[*****]</p> <div> <p>1. Omitted w.e.f. 1st day of January, 2022 vide Section 118 of the Finance Act, 2021 (NO. 13 OF 2020) which has come into force on 1st January 2022 vide Notification No. 39/2021 – Central Tax dated 21st December, 2021,</p> </div>
Section 130(4)	01.07.2017 to till date	No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.
Section 130(5)	01.07.2017 to till date	Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.
Section 130(6)	01.07.2017 to till date	The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.
Section 130(7)	01.07.2017 to till date	The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

19.9.1.1 Departmental Clarifications - Proper officer relating to provisions other than Registration and Composition under the Central Goods and Services Tax Act, 2017 - [Circular No. 3/3/2017-GST, dated 5th July, 2017](#)

In exercise of the powers conferred by clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, has issued [Circular No. 3/3/2017-GST, dated 5th July, 2017](#) to assign the officers mentioned in Column (2) of the Table below, the functions other than Registration and Composition as the proper officers in relation to the various sections of the Central Goods and Services Tax Act, 2017 or the rules made thereunder given in the corresponding entry in Column (3) of the said Table:-

Table

S. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
1.	Principal Commissioner/ Commissioner of Central Tax	i. Sub- section (7) of Section 67 ii. Proviso to Section 78
2.	Additional or Joint Commissioner of Central Tax	i. Sub- sections (1), (2), (5) and (9) of Section 67 ii. Sub-section (1) and (2) of Section 71 iii. Proviso to section 81 iv. Proviso to sub-section (6) of Section 129 v. Sub-rules (1),(2),(3) and (4) of Rule 139 vi. Sub-rule (2) of Rule 140
3.	Deputy or Assistant Commissioner of Central Tax	i. Sub-sections (5), (6), (7) and (10) of Section 54 ii. Sub-sections (1), (2) and (3) of Section 60 iii. Section 63 iv. Sub-section (1) of Section 64 v. Sub-section (6) of Section 65

		<p>vi. Sub-sections (1), (2), (3), (5), (6), (7), (9), (10) of Section 74</p> <p>vii. Sub-sections (2), (3), (6) and (8) of Section 76</p> <p>viii. Sub-section (1) of Section 79</p> <p>ix. Section 123</p> <p>x. Section 127</p> <p>xi. Sub-section (3) of Section 129</p> <p>xii. Sub- sections (6) and (7) of Section 130</p> <p>xiii. Sub- section (1) of Section 142</p> <p>xiv. Sub-rule (2) of Rule 82</p> <p>xv. Sub-rule (4) of Rule 86</p> <p>xvi. Explanation to Rule 86</p> <p>xvii. Sub-rule (11) of Rule 87</p> <p>xviii. Explanation 2 to Rule 87</p> <p>xix. Sub-rules (2) and (3) of Rule 90</p> <p>xx. Sub-rules (2) and (3) of Rule 91</p> <p>xxi. Sub-rules(1), (2), (3), (4) and (5) of Rule 92</p> <p>xxii. Explanation to Rule 93</p> <p>xxiii. Rule 94</p> <p>xxiv. Sub-rule (6) of Rule 96</p> <p>xxv. Sub-rule (2) of Rule 97</p> <p>xxvi. Sub-rule (2), (3), (4), (5) and (7) of Rule 98</p> <p>xxvii. Sub-rule (2) of Rule 100</p> <p>xxviii. Sub-rules (2), (3), (4) and (5) of Rule 101</p>
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		<p>xxix. Rule 143</p> <p>xxx. Sub-rules (1), (3), (4), (5), (6) and (7) of Rule 144</p> <p>xxxi. Sub-rules (1) and (2) of Rule 145</p> <p>xxxii. Rule 146</p> <p>xxxiii. Sub-rules (1), (2), (3), (5), (6), (7), (8), (10), (11), (12), (14) and (15) of Rule 147</p> <p>xxxiv. Sub-rules (1), (2) and (3) of Rule 151</p> <p>xxxv. Rule 152</p> <p>xxxvi. Rule 153</p> <p>xxxvii. Rule 155</p> <p>xxxviii. Rule 156</p>
4.	Superintendent of Central Tax	<p>i. Sub-section (6) of Section 35</p> <p>ii. Sub-sections (1) and (3) of Section 61</p> <p>iii. Sub-section (1) of Section 62</p> <p>iv. Sub-section (7) of Section 65</p> <p>v. Sub-section (6) of Section 66</p> <p>vi. Sub-section (11) of Section 67</p> <p>vii. Sub-section (1) of Section 70</p> <p>viii. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 73</p> <p>ix. Sub-rule (6) of Rule 56</p> <p>x. Sub-rules (1), (2) and (3) of Rule 99</p> <p>xi. Sub-rule (1) of Rule 132</p> <p>xii. Sub-rule (1), (2), (3) and (7) of Rule 142</p> <p>xiii. Rule 150</p>
5.	Inspector of Central Tax	<p>i. Sub-section (3) of Section 68</p> <p>ii. Sub-rule (17) of Rule 56</p>

		iii. Sub- rule (5) of Rule 58
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19.9.1.2 Departmental Clarifications - Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances — [Circular No. 41/15/2018-GST dated 13th April, 2018](#)

Sub-section (1) of section 68 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the CGST rules prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.

2. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the CGST Act, hereby issues the following instructions:

(a) The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.

(b) The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill

number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending EWBVER to the mobile number 77382 99899 (For e.g. EWBVER 120100231897).

(c) For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the CGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the CGST Act vide [Circular No. 3/3/2017 – GST, dated 05.07.2017](#).

(d) Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in FORM GST MOV01. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in FORM GST MOV-02, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty four hours of the aforementioned issuance of FORM GST MOV-02, prepare a report in Part A of FORM GST EWB-03 and upload the same on the common portal.

(e) Within a period of three working days from the date of issue of the order in FORM GST MOV-02, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in FORM GST MOV-03 from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

(f) On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in FORM GST MOV-04 and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the inspection in Part B of FORM GST EWB-03 within three days of such physical verification/inspection.

(g) Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in FORM GST MOV-05 and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in FORM GST MOV-06 and a notice in FORM GST MOV-07 in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.

(h) Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in FORM GST MOV-05. Further, the order in FORM GST MOV-09 shall be uploaded on the common portal and the demand accruing from the proceedings shall

be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(i) Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in FORM GST MOV-05, after obtaining a bond in FORM GST MOV-08 along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act. The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.

(j) Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in FORM GST MOV-09, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in FORM GST MOV-05. The order in FORM GST MOV-09 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(k) In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

(l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in FORM GST MOV-10. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.

(m) No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.

(n) An order of confiscation of goods shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash

ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in FORM GST MOV-11, the order in FORM GST MOV-09 passed earlier with respect to the said goods shall be withdrawn.

(o) An order of confiscation of conveyance shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the Central Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(p) The order referred to in clauses (n) and (o) above may be passed as a common order in the said FORM GST MOV-11.

(q) In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in FORM GST MOV11, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.

(r) Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.

(s) Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.

(t) The procedure narrated above shall be applicable mutatis mutandis for an order or proceeding under the IGST Act, 2017.

(u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.

(v) A summary of every order in FORM GST MOV-09 and FORM GST MOV-11 shall be uploaded electronically in FORM GST-DRC-07 on the common portal.

3. The format of [FORMS GST MOV-01 to GST MOV-11](#) are annexed to this Circular.

19.9.1.3 Departmental Clarifications - Modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in [Circular No. 41/15/2018-GST dated 13th April, 2018](#) - [Circular No. 49/23/2018-GST dated 21st June, 2018](#)

[Circular No. 41/15/2018-GST dated 13th April, 2018](#) was issued to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

2. In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, hereby issues the following modifications to the said Circular:-

(i) In para 2 (e) of the said Circular, the expression “three working days” may be replaced by the expression “three days”;

(ii) The statement after paragraph 3 in FORM GST MOV-05 should read as: “In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at ____ AM/PM.”

3.0 Further, it is stated that as per rule 138C (2) of the Central Goods and Services Tax Rules, 2017, where the physical verification of goods being transported on any conveyance has been done during transit at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and vice-versa, doubts have been raised as to the procedure to be followed in such situations.

3.1 In this regard, it is clarified that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.

3.2 Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

Illustration: Where a conveyance carrying twenty-five consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of twenty consignments, but is unable to produce the same with respect to the remaining five consignments, detention/confiscation can be made only with respect to the five consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

19.9.1.4 Departmental Clarifications - Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and

**confiscation of such goods and conveyances, as clarified in [Circular No. 41/15/2018-GST dated 13th April, 2018](#) and [Circular No. 49/23/2018-GST dated 21st June, 2018](#)-
[Circular No. 64/38/2018-GST dated 14th September, 2018](#)**

Kind attention is invited to [Circular No. 41/15/2018-GST dated 13th April, 2018](#) as amended by [Circular No. 49/23/2018-GST dated 21st June, 2018](#) vide which the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances was specified.

2. Various representations have been received regarding imposition of penalty in case of minor discrepancies in the details mentioned in the e-way bill although there are no major lapses in the invoices accompanying the goods in movement. The matter has been examined. In order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') hereby clarifies the said issue hereunder.

3. Section 68 of the CGST Act read with rule 138A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') requires that the person in charge of a conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry and a valid e-way bill in physical or electronic form for verification. In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable. Further, it may be noted that the non-furnishing of information in Part B of FORM GST EWB-01 amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of upto fifty kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be.

4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;

- c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- d) Error in one or two digits of the document number mentioned in the e-way bill;
- e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- f) Error in one or two digits/characters of the vehicle number.

6. In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

19.9.1.5 Departmental Clarifications - Changes in Circulars issued earlier under the CGST Act, 2017- [Circular No. 88/07/2019-GST dated 1st February, 2019](#)

The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the CGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

5 Circular No. 41/15/2018 dated 13.04.2018

This circular is revised in view of the amendment carried out in section 129 of the CGST Act, 2017 vide section 27 of the CGST (Amendment) Act, 2018 allowing 14 days for owner/transporter to pay tax/penalty for seized goods. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

5.1 Original Para 2(k)

In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

5.2 Amended Para 2(k)

In case the proposed tax and penalty are not paid within fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

5.3 Further, FORM GST MOV-08 and FORM GST MOV-09, annexed to the circular are revised as below:

FORM GST MOV-08 (para 4)

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within fourteen days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

FORM GST MOV-09 (para 10)

You are hereby directed to make the payment forthwith/not later than fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated

19.10 Confiscation or penalty not to interfere with other punishments. [Section 131]

Section 131	01.07.2017 to till date	Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.
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19.11 Punishment for certain offences. [Section 132]

Section 132(1)	01.07.2017 to 31.12.2020	Whoever commits any of the following offences, namely:—	
		(a)	supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
		(b)	issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
		(c)	avails input tax credit using such invoice or bill referred to in clause (b);
		(d)	collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
		(e)	evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
		(f)	falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

		<p>(g) obstructs or prevents any officer in the discharge of his duties under this Act;</p> <p>(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;</p> <p>(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;</p> <p>(j) tampers with or destroys any material evidence or documents;</p> <p>(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or</p> <p>(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,</p>
		<p>shall be punishable—</p> <p>(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;</p> <p>(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;</p> <p>(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;</p> <p>(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.</p>

01.01.2021 to 30.09.2023	¹ [Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences], namely:—	
	(a)	supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
	(b)	issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
	² [(c)	avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;]
	(d)	collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
	(e)	evades tax, ³ [*****] or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
	(f)	falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
	(g)	obstructs or prevents any officer in the discharge of his duties under this Act;
	(h)	acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
	(i)	receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
	(j)	tampers with or destroys any material evidence or documents;
	(k)	fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or
	(l)	attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,
shall be punishable—		

		<table border="1"><tr><td>(i)</td><td>in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;</td></tr><tr><td>(ii)</td><td>in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;</td></tr><tr><td>(iii)</td><td>in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;</td></tr><tr><td>(iv)</td><td>in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.</td></tr></table>	(i)	in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;	(ii)	in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;	(iii)	in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;	(iv)	in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.
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		<table border="1"><tr><td><p style="text-align: center;">Notes</p><p>1. Substituted w.e.f. 01.01.2021 for the words "Whoever commits any of the following offences", vide Section 127 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax, Dated 22nd December 2020.</p><p>2. Substituted w.e.f. 01.01.2021 for clause (c), read as :- "(c) avails input tax credit using such invoice or bill referred to in clause (b);" vide Section 127 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax dated 22nd December 2020.</p><p>3. Omitted w.e.f. 01.01.2021 the words " , fraudulently avails input tax credit" vide Section 127 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax dated 22nd December 2020.</p></td></tr></table>	<p style="text-align: center;">Notes</p> <p>1. Substituted w.e.f. 01.01.2021 for the words "Whoever commits any of the following offences", vide Section 127 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax, Dated 22nd December 2020.</p> <p>2. Substituted w.e.f. 01.01.2021 for clause (c), read as :- "(c) avails input tax credit using such invoice or bill referred to in clause (b);" vide Section 127 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax dated 22nd December 2020.</p> <p>3. Omitted w.e.f. 01.01.2021 the words " , fraudulently avails input tax credit" vide Section 127 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax dated 22nd December 2020.</p>							
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01.10.2023 to till date	Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences], namely:—	
	(a)	supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
	(b)	issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
	(c)	avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;]
	(d)	collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
	(e)	evades tax, [*****] or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
	(f)	falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
	¹ [(g)	*****]
	(h)	acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
	(i)	receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
	² [(j)	*****]
	³ [(k)	*****]
	(l)	attempts to commit, or abets the commission of any of the offences mentioned in ⁴ [clauses (a) to (f) and clauses (h) and (i)] of this section,
	shall be punishable—	
	(l)	in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

		<p>(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;</p> <p>(iii) in the case of ⁵[an offence specified in clause (b),] where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;</p> <p>(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or ⁶[****], he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.</p>
		<ol style="list-style-type: none"> 1. Omitted the clause (g) of section 132(1) "obstructs or prevents any officer in the discharge of his duties under this Act;" vide Section 156(a) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023. 2. Omitted the clause (j) of section 132(1) " tampers with or destroys any material evidence or documents;" vide Section 156(a) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023. 3. Omitted the clause (k) of section 132(1) "fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or" shall be omitted vide Section 156(a) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023. 4 in clause (l) of section 132(1), for the words, brackets and letters "clauses (a) to (k)", the words, brackets and letters

		<p>“clauses (a) to (f) and clauses (h) and (i)” have been substituted vide Section 156(b) of the Finance Act 2023 and shall come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions shall come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> <p>5 Substituted for the words “any other offence”, vide Section 156(c) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> <p>6 Omitted the words, brackets and letters “or clause (g) or clause (j)” vide Section 156(d) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p>
Section 132(2)	01.07.2017 to till date	Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.
Section 132(3)	01.07.2017 to till date	The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.
Section 132(4)	01.07.2017 to till date	Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non cognizable and bailable.
Section 132(5)	01.07.2017 to till date	The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.
Section 132(6)	01.07.2017 to till date	A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.
Explanation	01.07.2017 to till date	For the purposes of this section, the term “tax” shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

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19.11.1.2 – Instructions – Guidelines for Arrest and Bail in relation to offences punishable under CGST Act 2017

Instruction No. 2/2022-23 dated 17.08.2022 - Hon'ble Supreme Court of India in its judgment, dated 16th August, 2021 in Criminal Appeal No. 838 of 2021, arising out of SLP (Crl.) No. 5442/2021, has observed as follows:

"We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout co-operated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused."

2. Board has examined the above mentioned judgment and has felt the need to issue guidelines with respect to arrest under CGST Act, 2017. Even, under legacy laws *i.e.* Central Excise Act, 1944 (1 of 1944) and Chapter V of the Finance Act, 1994 (32 of 1994), the instructions regarding exercise of power to arrest had been issued.

3. Conditions precedent to arrest:

3.1 Sub-section (1) of Section 132 of CGST Act, 2017 deals with the punishment for offences specified therein. Sub-section (1) of Section 69 gives the power to the Commissioner to arrest a person where he has reason to believe that the alleged offender has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of Section 132 which is punishable under clause (i) or clause (ii) of subsection (1), or sub-section (2) of the Section 132 of CGST Act, 2017. Therefore, before placing a person under arrest, the legal requirements must be fulfilled. The reasons to believe to arrive at a decision to place an alleged offender under arrest must be unambiguous and amply clear. The reasons to believe must be based on credible material.

3.2 Since arrest impinges on the personal liberty of an individual, the power to arrest must be exercised carefully. The arrest should not be made in routine and mechanical manner. Even if all the legal conditions precedent to arrest mentioned in Section 132 of the CGST Act, 2017 are fulfilled, that will not, *ipso facto*, mean that an arrest must be made. Once the legal ingredients of the offence are made out, the Commissioner or the competent authority must then determine if the answer to any or some of the following questions is in the affirmative:

3.2.1 Whether the person was concerned in the non-bailable offence or credible information has been received, or a reasonable suspicion exists, of his having been so concerned?

3.2.2 Whether arrest is necessary to ensure proper investigation of the offence?

3.2.3 Whether the person, if not restricted, is likely to tamper the course of further investigation or is likely to tamper with evidence or intimidate or influence witnesses?

3.2.4 Whether person is mastermind or key operator effecting proxy/benami transaction in the name of dummy GSTIN or non-existent persons, etc. for passing fraudulent input tax credit etc.?

3.2.5 As unless such person is arrested, his presence before investigating officer cannot be ensured.

3.3 Approval to arrest should be granted only where the intent to evade tax or commit acts leading to availment or utilization of wrongful Input Tax Credit or fraudulent refund of tax or failure to pay amount collected as tax as specified in sub-section (1) of Section 132 of the CGST Act 2017, is evident and element of *mens rea*/guilty mind is palpable.

3.4 Thus, the relevant factors before deciding to arrest a person, apart from fulfillment of the legal requirements, must be that the need to ensure proper investigation and prevent the possibility of tampering with evidence or intimidating or influencing witnesses exists.

3.5 Arrest should, however, not be resorted to in cases of technical nature *i.e.* where the demand of tax is based on a difference of opinion regarding interpretation of Law. The prevalent practice of assessment could also be one of the determining factors while ascribing intention to evade tax to the alleged offender. Other factors influencing the decision to arrest could be if the alleged offender is co-operating in the investigation, *viz.* compliance to summons, furnishing of documents called for, not giving evasive replies, voluntary payment of tax etc.

4. Procedure for arrest

4.1 Pr. Commissioner/Commissioner shall record on file that after considering the nature of offence, the role of person involved and evidence available, he has reason to believe that the person has committed an offence as mentioned in Section 132 and may authorize an officer of central tax to arrest the concerned person(s). The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), read with section 69(3) of CGST Act relating to arrest and the procedure thereof, must be adhered to. It is, therefore, advised that the Pr. Commissioner/Commissioner should ensure that all officers are fully familiar with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

4.2 The arrest memo must be in compliance with the directions of Hon'ble Supreme Court in the case of *D.K Basu vs State of West Bengal* reported in 1997(1) SCC 416 (see paragraph 35). Format of arrest memo has been prescribed under Board's Circular No. 128/47/2019-GST, dated 23rd December, 2019. The arrest memo should indicate relevant section (s) of the CGST Act, 2017 or other laws attracted to the case and to the arrested person and inapplicable provisions should be struck off. In addition,

4.2.1 The grounds of arrest must be explained to the arrested person and this fact must be noted in the arrest memo;

4.2.2 A nominated or authorized person (as per the details provided by arrested person) of the arrested person should be informed immediately and this fact shall be mentioned in the arrest memo;

4.2.3 The date and time of arrest shall be mentioned in the arrest memo and the arrest memo should be given to the person arrested under proper acknowledgment.

4.3 A separate arrest memo has to be made and provided to each individual/arrested person. This should particularly be kept in mind in the event when there are several arrests in a single case.

4.4 Attention is also invited to Board's Circular No. 122/41/2019-GST, dated 5th November, 2019 which makes generation and quoting of Document Identification Number (DIN) mandatory on communication issued by officers of CBIC to tax payers and other concerned persons for the purpose of investigation. Any lapse in this regard will be viewed seriously.

4.5 Further there are certain modalities which should be complied with at the time of arrest and pursuant to an arrest, which include the following:

4.5.1 A woman should be arrested only by a woman officer in accordance with section 46 of Code of Criminal Procedure, 1973.

4.5.2 Medical examination of an arrested person should be conducted by a medical officer in the service of Central or State Government and in case the medical officer is not available, by a registered medical practitioner, soon after the arrest is made. If an arrested person is a female, then such an examination shall be made only by or under supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.

4.5.3 It shall be the duty of the person having the custody of an arrested person to take reasonable care of the health and safety of the arrested person.

4.5.4 Arrest should be made with minimal use of force and publicity, and without violence. The person arrested should be subjected to reasonable restraint to prevent escape.

5. Post arrest formalities

5.1 The procedure is separately outlined for the different categories of offences, as listed in sub-sections (4) and (5) of Section 132 of the CGST Act, 2017, as amended:

5.1.1.1 In cases, where a person is arrested under sub-section (1) of Section 69 of the CGST Act, 2017, for an offence specified under sub-section (4) of Section 132 of the CGST Act, 2017, the Assistant Commissioner or Deputy Commissioner is bound to release a person on bail against a bail bond. The bail conditions should be informed in writing to the arrested person and also on telephone to the nominated person of the person (s) arrested. The arrested person should also be allowed to talk to the nominated person.

5.1.1.2 The conditions will relate to, inter alia, execution of a personal bail bond and one surety of like amount given by a local person of repute, appearance before the investigating officer when required and not leaving the country without informing the officer. The amount to be indicated in the personal bail bond and surety will depend upon the facts and circumstances of each case, inter-alia, on the amount of tax involved. It has to be ensured that the amount of Bail bond /Surety should not be excessive and should be commensurate with the financial status of the arrested person.

5.1.1.3 If the conditions of the bail are fulfilled by the arrested person, he shall be released by the officer concerned on bail forthwith. However, only in cases where the conditions for granting bail are not fulfilled, the arrested person shall be produced before the appropriate Magistrate without unnecessary delay and within twenty-four hours of arrest. If necessary, the arrested person may be handed over¹ to the nearest police station for his safe custody, during the night under a challan, before he is produced before the Court.

5.1.2 In cases, where a person is arrested under sub-section (1) of Section 69 of the CGST Act, 2017, for an offence specified under sub-section (5) of Section 132 of the CGST Act, 2017, the officer authorized to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours. However, in the event of

circumstances preventing the production of the arrested person before a Magistrate, if necessary, the arrested person may be handed over to nearest Police Station for his safe custody under a proper challan and produced before the Magistrate on the next day, and the nominated person of the arrested person may also be informed accordingly. In any case, it must be ensured that the arrested person should be produced before the appropriate Magistrate within twenty four hours of arrest, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

5.2 Formats of the relevant documentation *i.e.* Bail Bond in the Code of Criminal Procedure, 1973 (2 of 1974) and the Challan for handing over to the police should be followed.

5.3 After arrest of the accused, efforts should be made to file prosecution complaint under Section 132 of the Act, before the competent court at the earliest, preferably within sixty days of arrest, where no bail is granted. In all other cases of arrest also, prosecution complaint should be filed within a definite time frame.

5.4 Every Commissionerate/Directorate should maintain a Bail Register containing the details of the case, arrested person, bail amount, surety amount etc. The money/instruments/documents received as surety should be kept in safe custody of a single nominated officer who shall ensure that these instruments/ documents received as surety are kept valid till the bail is discharged.

6. Reports to be sent

6.1 Pr. Director-General (DGGI)/ Pr. Chief Commissioner(s)/Chief Commissioner(s) shall send a report on every arrest to Member (Compliance Management) as well as to the Zonal Member within 24 hours of the arrest giving details as has been prescribed in **Annexure-I**. To maintain an all India record of arrests made in CGST, from September, 2022 onwards, a monthly report of all persons arrested in the Zone shall be sent by the Principal Chief Commissioner(s)/Chief Commissioner(s) to the Directorate General of GST Intelligence, Headquarters, New Delhi in the format, hereby prescribed in **Annexure-II**, by the 5th of the succeeding month. The monthly reports received from the formations shall be compiled by DGGI, Hqrs. and a compiled Zone wise report shall be sent to Commissioner (GST-Investigation), CBIC by 10th of every month.

6.2 Further, all such reports shall be sent only by e-mail and the practice of sending hard copies to the Board should be stopped with immediate effect.

19.11.1.2 – Instructions - GUIDELINES FOR LAUNCHING OF PROSECUTION UNDER THE CENTRAL GOODS & SERVICES TAX ACT, 2017 - [INSTRUCTION No. 04/2022-23 \[GST – Investigation\] dated 1st September 2022](#)

Prosecution is the institution or commencement of legal proceeding; the process of exhibiting formal charges against the offender.

2. Section 132 of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017) codifies the offences under the Act which warrant institution of criminal proceedings and prosecution.

Whoever commits any of the offences specified under sub-section (1) and sub-section (2) of section 132 of the CGST Act, 2017, can be prosecuted.

3. Sanction of prosecution:

3.1 Sanction of prosecution has serious repercussions for the person involved, therefore, the nature of evidence collected during the investigation should be carefully assessed. 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 ITC wrongly availed, or refund wrongly taken and the nature as well as quality of evidence collected.

3.2. Prosecution should not be filed merely because a demand has been confirmed in the adjudication proceedings. Prosecution should not be launched in cases of technical nature, or where additional claim of tax is based on a difference of opinion regarding interpretation of law. Further, the evidence collected should be adequate to establish beyond reasonable doubt that the person had guilty mind, knowledge of the offence, or had fraudulent intention or in any manner possessed mens-rea for committing the offence. It follows, therefore, that 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.

4. 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. Hon'ble Supreme Court of India in the case of **Radheshyam Kejriwal [2011 (266) ELT 294 (SC)]** has, inter-alia, observed the following:

- (i) Adjudication proceedings and criminal proceedings can be launched simultaneously;
- (ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;
- (iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;
- (iv) The findings against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;
- (v) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and

(vi) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.

In view of the above observations of Hon'ble Supreme Court, prosecution complaint may even be filed before adjudication of the case, especially where offence involved is grave, or qualitative evidences are available, or it is apprehended that the concerned person may delay completion of adjudication proceedings. In cases where any offender is arrested under section 69 of the CGST Act, 2017, prosecution complaint may be filed even before issuance of the Show Cause Notice.

5. Monetary limits:

5.1 Monetary Limit: Prosecution should normally be launched where amount of tax evasion, or misuse of ITC, or fraudulently obtained refund in relation to offences specified under sub-section (1) of section 132 of the CGST Act, 2017 is more than **Five Hundred Lakh rupees**. However, in following cases, the said monetary limit shall not be applicable:

(i) Habitual evaders: Prosecution can be launched in the case of a company/taxpayer habitually involved in tax evasion or misusing Input Tax Credit (ITC) facility or fraudulently obtained refund. A company/taxpayer would be treated as habitual evader, if it has been involved in two or more cases of confirmed demand (at the first adjudication level or above) of tax evasion/fraudulent refund or misuse of ITC involving fraud, suppression of facts etc. in past two years such that the total tax evaded and/or total ITC misused and/or fraudulently obtained refund exceeds Five Hundred Lakh rupees. DIGIT database may be used to identify such habitual evaders.

(ii) Arrest Cases: Cases where during the course of investigation, arrests have been made under section 69 of the CGST Act.

6. Authority to sanction prosecution:

6.1 The prosecution complaint for prosecuting a person should be filed only after obtaining the sanction of the Pr. Commissioner/Commissioner of CGST in terms of sub-section (6) of section 132 of CGST Act, 2017.

6.2 In respect of cases investigated by DGGI, the prosecution complaint for prosecuting a person should be filed only after obtaining the sanction of Pr. Additional Director General/Additional Director General, Directorate General of GST Intelligence (DGGI) of the concerned zonal unit/ Hqrs.

7. Procedure for sanction of prosecution:

7.1 In cases of arrest(s) made under section 69 of the CGST Act, 2017:

7.1.1 Where during the course of investigation, arrest(s) have been made and no bail has been granted, all efforts should be made to file prosecution complaint in the Court within sixty (60) days of arrest. In all other cases of arrest, prosecution complaint should also be filed within a definite time frame. The proposal of filing complaint in the format of investigation report prescribed in **Annexure-I**, should be forwarded to the Pr. Commissioner/Commissioner, within fifty (50) days of arrest. The Pr. Commissioner/ Commissioner shall examine the proposal and take decision as per section 132 of CGST Act, 2017. If prosecution sanction is accorded, he shall issue a sanction order along with an order authorizing the investigating officer (at the level of Superintendent) of the case to file the prosecution complaint in the competent court.

7.1.2 In cases investigated by DGGI wherever an arrest has been made, procedure as detailed in para 7.1.1 should be followed by officers of equivalent rank of DGGI.

7.1.3 The Additional/ Joint Commissioner or Additional / Joint Director in the case of DGGI, must ensure that all the documents/ evidence and list of witnesses are kept ready before forwarding the proposal of filing complaint to Pr. Commissioner/ Commissioner or Pr. ADG/ ADG of DGGI.

7.2 In case of filing of prosecution against legal person, including natural person:

7.2.1 Section 137 (1) of the Act provides that *where an offence under this Act has been committed by a company, every person who, at the time offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.* Section 137 (2) of the Act provides that *where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.* Thus, in the case of Companies, both the legal person as well as natural person are liable for prosecution under section 132 of the CGST Act. Similarly, under sub-section (3) of section 137, the provisions have been made for partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a Trust.

7.2.2 Where it is deemed fit to launch prosecution before adjudication of the case, the Additional/Joint Commissioner or Additional/Joint Director, DGGI, as the case may be, supervising the investigation, shall record the reason for the same and forward the proposal

to the sanctioning authority. The decision of the sanctioning authority shall be informed to the concerned adjudicating authority so that there is no need for him to examine the case again from the perspective of prosecution.

7.2.3 In all cases (other than those mentioned at para 7.2.2 and arrests where prosecution complaint has already been filed before adjudication), the adjudicating authority should invariably indicate at the time of passing the order itself whether it considers the case fit for prosecution, so that it can be further processed and sent to the Pr. Commissioner/ Commissioner for obtaining his sanction of prosecution.

7.2.4 In cases, where Show Cause Notice has been issued by DGGI, the recommendation of adjudicating authority for filing of prosecution shall be sent to the Pr. Additional Director General/Additional Director General, DGGI of the concerned zonal unit/ Hqrs.

7.2.5 Where at the time of passing of adjudication order, no view has been taken on prosecution by the Adjudicating Authority, the adjudication branch shall re-submit the file within 15 days from the date of issue of adjudication order to the Adjudicating Authority to take view on prosecution.

7.2.6 Pr. Commissioner/ Commissioner or Pr. Additional Director General/ Additional Director General of DGGI may on his own motion also, taking into consideration inter alia, the seriousness of the offence, examine whether the case is fit for sanction of prosecution irrespective of whether the adjudicating authority has recommended prosecution or not.

7.2.7 An investigation report for the purpose of launching prosecution should be carefully prepared in the format given in **Annexure-I**, within one month of the date of receipt of the adjudication order or receipt of recommendation of Adjudicating Authority, as the case may be. Investigation report should be signed by an Deputy/Assistant Commissioner, endorsed by the jurisdictional Additional/ Joint Commissioner, and sent to the Pr. Commissioner/ Commissioner for taking a decision on sanction for launching prosecution. In respect of cases booked by DGGI, the said report shall be prepared by the officers of DGGI, signed by the Deputy/ Assistant Director, endorsed by the supervising Additional/ Joint Director and sent to the Pr. Additional Director General/ Additional Director General of DGGI for taking a decision on sanction for launching prosecution. Thereafter, the competent authority shall follow the procedure as mentioned in para 7.1.1.

7.2.8 Once the sanction for prosecution has been obtained, prosecution in the court of law should be filed as early as possible, but not beyond a period of sixty days by the duly authorized officer (of the level of Superintendent). In case of delay in filing complaint beyond 60 days, the reason for the same shall be brought to the notice of the sanctioning authority

i.e., Pr. Commissioner/ Commissioner or Pr. Additional Director General/ Additional Director General, by the officer authorised for filing of the complaint.

7.2.9 In the cases investigated by DGGI, except for cases pertaining to single/multiple taxpayer(s) under Central Tax administration in one Commissionerate where arrests have not been made and the prosecution is not proposed prior to issuance of show cause notice, prosecution complaints shall be filed and followed up by DGGI. In other cases, the complaint shall be filed by the officer at level of Superintendent of the jurisdictional Commissionerate, authorized by Pr. Commissioner/ Commissioner of CGST. However, in all cases investigated by DGGI, the prosecution shall continue to be sanctioned by appropriate officer of DGGI.

8. Appeal against Court order in case of inadequate punishment/acquittal:

8.1 The Prosecution Cell in the Commissionerate shall examine the judgment of the Court and submit their recommendations to the Pr. Commissioner/ Commissioner. Where Pr. Commissioner/ Commissioner is of the view that the accused person has been let off with lighter punishment than what is envisaged in the Act or has been acquitted despite the evidence being strong, filing of appeal should be considered against the order within the stipulated time. Before filing of appeal in such cases, concurrence of Pr. CC/CC should be obtained. Sanction for appeal in such cases shall, however, be accorded by Pr. Commissioner/ Commissioner.

8.2 In respect of cases booked by DGGI, the Prosecution Cell in the Directorate shall examine the judgment of the court and submit their recommendations to the Pr. Additional Director General/ Additional Director General who shall take a view regarding acceptance of the order or filing of appeal. However, before filing of appeal, concurrence of DG or Pr. DG (for cases booked by HQ Unit) should be obtained.

9. Procedure for withdrawal of prosecution:

9.1 Procedure for withdrawal of sanction-order of prosecution:

9.1.1 In cases where prosecution has been sanctioned but complaint has not been filed and new facts or evidence have come to light necessitating review of the sanction for prosecution, the Commissionerate should immediately bring the same to the notice of the sanctioning authority. After considering the new facts and evidence, the sanctioning authority, if satisfied, may recommend to the jurisdictional Pr. Chief Commissioner/ Chief Commissioner that the sanction for prosecution be withdrawn who shall then take a decision.

9.1.2 In the cases investigated by DGGI, such withdrawal of sanction order may be made with the approval of Director General of DGGI of concerned sub-national unit. In the cases booked

by DGGI, Hqrs., Pr. Director General shall be competent to approve the withdrawal of sanction order.

9.2 Procedure for withdrawal of complaint already filed for prosecution:

9.2.1 Attention is invited to judgment of Hon'ble Supreme Court on the issue of relation between adjudication proceedings and prosecution in the case of **Radheshyam Kejriwal, supra**. Hon'ble Supreme Court in para 43 have observed as below:

"In our opinion, therefore, the yardstick would be to judge as to whether allegation in the adjudication proceeding as well as proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceeding is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceeding, the trial of the person concerned shall be in abuse of the process of the court."

The said ratio is equally applicable to GST Law. Therefore, where it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings and such order has attained finality, Pr. Commissioner/ Commissioner or Pr. Additional Director General/ Additional Director General after taking approval of Pr. Chief Commissioner/ Chief Commissioner or Pr. Director General/ Director General, as the case may be, would ensure filing of an application through Public Prosecutor in the court to allow withdrawal of prosecution in accordance with law. The withdrawal can only be affected with the approval of the court.

10. General guidelines:

10.1 It has been reported that delay in the Court proceedings is often due to non-availability of the records required to be produced before the Court or due to delay in drafting of the complaint, listing of the exhibits etc. It shall be the responsibility of the officer who has been authorized to file complaint, to take charge of all documents, statements and other exhibits that would be required to be produced before a Court. The list of exhibits etc. should be finalized in consultation with the Public Prosecutor at the time of drafting of the complaint. No time should be lost in ensuring that all exhibits are kept in safe custody. Where a complaint has not been filed even after a lapse of 60 days from the receipt of sanction for prosecution, the reason for delay shall be brought to the notice of the Pr. Commissioner/ Commissioner or the Pr. Additional Director General/ Additional Director General of DGGI by the Additional/ Joint Commissioner in charge of the Commissionerate or Additional/ Joint Director of DGGI, responsible for filing of the complaint.

10.2 Filing of prosecution need not be kept in abeyance on the ground that the taxpayer has gone in appeal/ revision. However, to ensure that the proceeding in appeal/revision are not unduly delayed because the case records are required for the purpose of prosecution, a

parallel file containing copies of essential documents relating to adjudication should be maintained.

10.3 The Superintendent in-charge of adjudication section should endorse copy of all adjudication orders to the prosecution section. The Superintendent in charge of prosecution section should monitor receipt of all serially numbered adjudication orders and obtain copies of adjudication orders of missing serial numbers from the adjudication section every month. In respect of adjudication orders related to DGGI cases, Superintendent in charge of adjudication section should ensure endorsing a copy of adjudication order to DGGI. Concerned Zonal Units/ Hqrs. of DGGI shall also follow up the status of adjudication of the case from the concerned Commissionerate or adjudicating authority.

11. Publication of names of persons convicted:

11.1 Section 159 of the CGST Act, 2017 grants power to the Pr. Commissioner/Commissioner or any other officer authorised by him on his behalf to publish name and other particulars of the person convicted under the Act. It is directed that in deserving cases, the department should invoke this section in respect of all persons who are convicted under the Act.

12. Monitoring of prosecution:

12.1 Prosecution, once launched, should be vigorously followed. The Pr. Commissioner/Commissioner of CGST or Pr. Additional Director General/ Additional Director General of DGGI should monitor cases of prosecution at monthly intervals and take the corrective action wherever necessary to ensure that the progress of prosecution is satisfactory. In DGGI, an Additional/ Joint Director in each zonal unit and DGGI (Hqrs) shall supervise the prosecution related work and take stock of the pending prosecution cases. For keeping a track of prosecution cases, entries of all prosecution cases should promptly be made in DIGIT/ Investigation Module, within 48 hours of sanction of prosecution and the entries must be updated from time to time. Additional/ Joint Commissioner or Additional/ Joint Director, in-charge of supervising prosecution cases shall ensure making timely entries in the database.

13. Compounding of offence:

13.1 Section 138 of the CGST Act, 2017 provides for compounding of offences by the Pr. Commissioner/ Commissioner on payment of compounding amount. The provisions regarding compounding of offence 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.

14. Transitional Provisions:

14.1 All cases where sanction for prosecution is accorded after the issue of these instructions 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.

15. Inspection of prosecution work by the Directorate General of Performance Management:

15.1 Director General, Directorate General of Performance Management and Pr. Chief Commissioners/Chief Commissioners, who are required to inspect the Commissionerates, should specifically check whether instructions in this regard are being followed scrupulously and make a mention of the implementation of the guidelines in their inspection report apart from recording of statistical data. Similarly exercise should also be carried out in DGGI.

16. Where a case is considered suitable for launching prosecution and where adequate evidence is forthcoming, securing conviction largely depends on the quality of investigation. It is, therefore, necessary for senior officers to take personal interest in the investigation of important cases of GST evasion and in respect of cases having money laundering angle and to provide guidance and support to the investigating officers.

17. To ensure proper training to the officers posted for prosecution work, the Pr. Director General, National Academy of Customs, Indirect Taxes and Narcotics (NACIN), Faridabad, should organize separate training courses on prosecution/arrests etc. from time to time and should incorporate a series of lectures on this issue in the courses organized for investigation. The Pr. Commissioner / Commissioner or Pr. ADG/ ADG of DGGI should judiciously sponsor officers for such courses.

19.12 Liability of officers and certain other persons. [Section 133]

Section 133(1)	01.07.2017 to till date	Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of central tax having access to information specified under sub-section (1) of section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence
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		under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.
Section 133(2)	01.07.2017 to till date	Any person— (a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government; (b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

19.13 Cognizance of offences. [Section 134]

Section 134	01.07.2017 to till date	No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.
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19.14 Presumption of culpable mental state. [Section 135]

Section 135	01.07.2017 to till date	In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.
Explanation	01.07.2017 to till date	For the purposes of this section,— (i) the expression “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact; (ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

19.15 Relevancy of statements under certain circumstances. [Section 136]

Section 136	01.07.2017 to till date	A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,— —
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		<p>(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or</p> <p>(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.</p>
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19.16 Offences by companies. [Section 137]

Section 137(1)	01.07.2017 to till date	Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
Section 137(2)	01.07.2017 to till date	Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
Section 137(3)	01.07.2017 to till date	Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, mutatis mutandis, apply to such persons.
Section 137(4)	01.07.2017 to till date	Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.
Explanation	01.07.2017 to till date	<p>For the purposes of this section,—</p> <p>(i) “company” means a body corporate and includes a firm or other association of individuals; and</p> <p>(ii) “director”, in relation to a firm, means a partner in the firm.</p>

19.16.1.1 – Instructions - GUIDELINES FOR LAUNCHING OF PROSECUTION UNDER THE CENTRAL GOODS & SERVICES TAX ACT, 2017 - [INSTRUCTION No. 04/2022-23 \[GST – Investigation\] dated 1st September 2022](#)

Prosecution is the institution or commencement of legal proceeding; the process of exhibiting formal charges against the offender.

2. Section 132 of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017) codifies the offences under the Act which warrant institution of criminal proceedings and prosecution. Whoever commits any of the offences specified under sub-section (1) and sub-section (2) of section 132 of the CGST Act, 2017, can be prosecuted.

3. Sanction of prosecution:

3.1 Sanction of prosecution has serious repercussions for the person involved, therefore, the nature of evidence collected during the investigation should be carefully assessed. 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 ITC wrongly availed, or refund wrongly taken and the nature as well as quality of evidence collected.

3.2. Prosecution should not be filed merely because a demand has been confirmed in the adjudication proceedings. Prosecution should not be launched in cases of technical nature, or where additional claim of tax is based on a difference of opinion regarding interpretation of law. Further, the evidence collected should be adequate to establish beyond reasonable doubt that the person had guilty mind, knowledge of the offence, or had fraudulent intention or in any manner possessed mens-rea for committing the offence. It follows, therefore, that 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.

4. 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. Hon'ble Supreme Court of India in the case of **Radheshyam Kejriwal [2011 (266) ELT 294 (SC)]** has, inter-alia, observed the following:

(i) Adjudication proceedings and criminal proceedings can be launched simultaneously;

- (ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;
- (iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;
- (iv) The findings against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;
- (v) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and
- (vi) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.

In view of the above observations of Hon'ble Supreme Court, prosecution complaint may even be filed before adjudication of the case, especially where offence involved is grave, or qualitative evidences are available, or it is apprehended that the concerned person may delay completion of adjudication proceedings. In cases where any offender is arrested under section 69 of the CGST Act, 2017, prosecution complaint may be filed even before issuance of the Show Cause Notice.

5. Monetary limits:

5.1 Monetary Limit: Prosecution should normally be launched where amount of tax evasion, or misuse of ITC, or fraudulently obtained refund in relation to offences specified under sub-section (1) of section 132 of the CGST Act, 2017 is more than **Five Hundred Lakh rupees**. However, in following cases, the said monetary limit shall not be applicable:

(i) Habitual evaders: Prosecution can be launched in the case of a company/taxpayer habitually involved in tax evasion or misusing Input Tax Credit (ITC) facility or fraudulently obtained refund. A company/taxpayer would be treated as habitual evader, if it has been involved in two or more cases of confirmed demand (at the first adjudication level or above) of tax evasion/fraudulent refund or misuse of ITC involving fraud, suppression of facts etc. in past two years such that the total tax evaded and/or total ITC misused and/or fraudulently obtained refund exceeds Five Hundred Lakh rupees. DIGIT database may be used to identify such habitual evaders.

(ii) Arrest Cases: Cases where during the course of investigation, arrests have been made under section 69 of the CGST Act.

6. Authority to sanction prosecution:

6.1 The prosecution complaint for prosecuting a person should be filed only after obtaining the sanction of the Pr. Commissioner/Commissioner of CGST in terms of sub-section (6) of section 132 of CGST Act, 2017.

6.2 In respect of cases investigated by DGGI, the prosecution complaint for prosecuting a person should be filed only after obtaining the sanction of Pr. Additional Director General/Additional Director General, Directorate General of GST Intelligence (DGGI) of the concerned zonal unit/ Hqrs.

7. Procedure for sanction of prosecution:

7.1 In cases of arrest(s) made under section 69 of the CGST Act, 2017:

7.1.1 Where during the course of investigation, arrest(s) have been made and no bail has been granted, all efforts should be made to file prosecution complaint in the Court within sixty (60) days of arrest. In all other cases of arrest, prosecution complaint should also be filed within a definite time frame. The proposal of filing complaint in the format of investigation report prescribed in **Annexure-I**, should be forwarded to the Pr. Commissioner/Commissioner, within fifty (50) days of arrest. The Pr. Commissioner/ Commissioner shall examine the proposal and take decision as per section 132 of CGST Act, 2017. If prosecution sanction is accorded, he shall issue a sanction order along with an order authorizing the investigating officer (at the level of Superintendent) of the case to file the prosecution complaint in the competent court.

7.1.2 In cases investigated by DGGI wherever an arrest has been made, procedure as detailed in para 7.1.1 should be followed by officers of equivalent rank of DGGI.

7.1.3 The Additional/ Joint Commissioner or Additional / Joint Director in the case of DGGI, must ensure that all the documents/ evidence and list of witnesses are kept ready before forwarding the proposal of filing complaint to Pr. Commissioner/ Commissioner or Pr. ADG/ ADG of DGGI.

7.2 In case of filing of prosecution against legal person, including natural person:

7.2.1 Section 137 (1) of the Act provides that *where an offence under this Act has been committed by a company, every person who, at the time offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.* Section 137 (2) of the Act provides that *where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the*

part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Thus, in the case of Companies, both the legal person as well as natural person are liable for prosecution under section 132 of the CGST Act. Similarly, under sub-section (3) of section 137, the provisions have been made for partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a Trust.

7.2.2 Where it is deemed fit to launch prosecution before adjudication of the case, the Additional/Joint Commissioner or Additional/Joint Director, DGGI, as the case may be, supervising the investigation, shall record the reason for the same and forward the proposal to the sanctioning authority. The decision of the sanctioning authority shall be informed to the concerned adjudicating authority so that there is no need for him to examine the case again from the perspective of prosecution.

7.2.3 In all cases (other than those mentioned at para 7.2.2 and arrests where prosecution complaint has already been filed before adjudication), the adjudicating authority should invariably indicate at the time of passing the order itself whether it considers the case fit for prosecution, so that it can be further processed and sent to the Pr. Commissioner/ Commissioner for obtaining his sanction of prosecution.

7.2.4 In cases, where Show Cause Notice has been issued by DGGI, the recommendation of adjudicating authority for filing of prosecution shall be sent to the Pr. Additional Director General/Additional Director General, DGGI of the concerned zonal unit/ Hqrs.

7.2.5 Where at the time of passing of adjudication order, no view has been taken on prosecution by the Adjudicating Authority, the adjudication branch shall re-submit the file within 15 days from the date of issue of adjudication order to the Adjudicating Authority to take view on prosecution.

7.2.6 Pr. Commissioner/ Commissioner or Pr. Additional Director General/ Additional Director General of DGGI may on his own motion also, taking into consideration inter alia, the seriousness of the offence, examine whether the case is fit for sanction of prosecution irrespective of whether the adjudicating authority has recommended prosecution or not.

7.2.7 An investigation report for the purpose of launching prosecution should be carefully prepared in the format given in **Annexure-I**, within one month of the date of receipt of the adjudication order or receipt of recommendation of Adjudicating Authority, as the case may be. Investigation report should be signed by an Deputy/Assistant Commissioner, endorsed by the jurisdictional Additional/ Joint Commissioner, and sent to the Pr. Commissioner/ Commissioner for taking a decision on sanction for launching prosecution. In respect of cases booked by DGGI, the said report shall be prepared by the officers of DGGI, signed by the

Deputy/ Assistant Director, endorsed by the supervising Additional/ Joint Director and sent to the Pr. Additional Director General/ Additional Director General of DGGI for taking a decision on sanction for launching prosecution. Thereafter, the competent authority shall follow the procedure as mentioned in para 7.1.1.

7.2.8 Once the sanction for prosecution has been obtained, prosecution in the court of law should be filed as early as possible, but not beyond a period of sixty days by the duly authorized officer (of the level of Superintendent). In case of delay in filing complaint beyond 60 days, the reason for the same shall be brought to the notice of the sanctioning authority i.e., Pr. Commissioner/ Commissioner or Pr. Additional Director General/ Additional Director General, by the officer authorised for filing of the complaint.

7.2.9 In the cases investigated by DGGI, except for cases pertaining to single/multiple taxpayer(s) under Central Tax administration in one Commissionerate where arrests have not been made and the prosecution is not proposed prior to issuance of show cause notice, prosecution complaints shall be filed and followed up by DGGI. In other cases, the complaint shall be filed by the officer at level of Superintendent of the jurisdictional Commissionerate, authorized by Pr. Commissioner/ Commissioner of CGST. However, in all cases investigated by DGGI, the prosecution shall continue to be sanctioned by appropriate officer of DGGI.

8. Appeal against Court order in case of inadequate punishment/acquittal:

8.1 The Prosecution Cell in the Commissionerate shall examine the judgment of the Court and submit their recommendations to the Pr. Commissioner/ Commissioner. Where Pr. Commissioner/ Commissioner is of the view that the accused person has been let off with lighter punishment than what is envisaged in the Act or has been acquitted despite the evidence being strong, filing of appeal should be considered against the order within the stipulated time. Before filing of appeal in such cases, concurrence of Pr. CC/CC should be obtained. Sanction for appeal in such cases shall, however, be accorded by Pr. Commissioner/ Commissioner.

8.2 In respect of cases booked by DGGI, the Prosecution Cell in the Directorate shall examine the judgment of the court and submit their recommendations to the Pr. Additional Director General/ Additional Director General who shall take a view regarding acceptance of the order or filing of appeal. However, before filing of appeal, concurrence of DG or Pr. DG (for cases booked by HQ Unit) should be obtained.

9. Procedure for withdrawal of prosecution:

9.1 Procedure for withdrawal of sanction-order of prosecution:

9.1.1 In cases where prosecution has been sanctioned but complaint has not been filed and new facts or evidence have come to light necessitating review of the sanction for prosecution, the Commissionerate should immediately bring the same to the notice of the sanctioning authority. After considering the new facts and evidence, the sanctioning authority, if satisfied, may recommend to the jurisdictional Pr. Chief Commissioner/ Chief Commissioner that the sanction for prosecution be withdrawn who shall then take a decision.

9.1.2 In the cases investigated by DGGI, such withdrawal of sanction order may be made with the approval of Director General of DGGI of concerned sub-national unit. In the cases booked by DGGI, Hqrs., Pr. Director General shall be competent to approve the withdrawal of sanction order.

9.2 Procedure for withdrawal of complaint already filed for prosecution:

9.2.1 Attention is invited to judgment of Hon'ble Supreme Court on the issue of relation between adjudication proceedings and prosecution in the case of **Radheshyam Kejriwal, supra**. Hon'ble Supreme Court in para 43 have observed as below:

"In our opinion, therefore, the yardstick would be to judge as to whether allegation in the adjudication proceeding as well as proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceeding is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceeding, the trial of the person concerned shall be in abuse of the process of the court."

The said ratio is equally applicable to GST Law. Therefore, where it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings and such order has attained finality, Pr. Commissioner/ Commissioner or Pr. Additional Director General/ Additional Director General after taking approval of Pr. Chief Commissioner/ Chief Commissioner or Pr. Director General/ Director General, as the case may be, would ensure filing of an application through Public Prosecutor in the court to allow withdrawal of prosecution in accordance with law. The withdrawal can only be affected with the approval of the court.

10. General guidelines:

10.1 It has been reported that delay in the Court proceedings is often due to non-availability of the records required to be produced before the Court or due to delay in drafting of the complaint, listing of the exhibits etc. It shall be the responsibility of the officer who has been authorized to file complaint, to take charge of all documents, statements and other exhibits that would be required to be produced before a Court. The list of exhibits etc. should be finalized in consultation with the Public Prosecutor at the time of drafting of the complaint. No time should be lost in ensuring that all exhibits are kept in safe custody. Where a complaint

has not been filed even after a lapse of 60 days from the receipt of sanction for prosecution, the reason for delay shall be brought to the notice of the Pr. Commissioner/ Commissioner or the Pr. Additional Director General/ Additional Director General of DGGI by the Additional/ Joint Commissioner in charge of the Commissionerate or Additional/ Joint Director of DGGI, responsible for filing of the complaint.

10.2 Filing of prosecution need not be kept in abeyance on the ground that the taxpayer has gone in appeal/ revision. However, to ensure that the proceeding in appeal/revision are not unduly delayed because the case records are required for the purpose of prosecution, a parallel file containing copies of essential documents relating to adjudication should be maintained.

10.3 The Superintendent in-charge of adjudication section should endorse copy of all adjudication orders to the prosecution section. The Superintendent in charge of prosecution section should monitor receipt of all serially numbered adjudication orders and obtain copies of adjudication orders of missing serial numbers from the adjudication section every month. In respect of adjudication orders related to DGGI cases, Superintendent in charge of adjudication section should ensure endorsing a copy of adjudication order to DGGI. Concerned Zonal Units/ Hqrs. of DGGI shall also follow up the status of adjudication of the case from the concerned Commissionerate or adjudicating authority.

11. Publication of names of persons convicted:

11.1 Section 159 of the CGST Act, 2017 grants power to the Pr. Commissioner/Commissioner or any other officer authorised by him on his behalf to publish name and other particulars of the person convicted under the Act. It is directed that in deserving cases, the department should invoke this section in respect of all persons who are convicted under the Act.

12. Monitoring of prosecution:

12.1 Prosecution, once launched, should be vigorously followed. The Pr. Commissioner/Commissioner of CGST or Pr. Additional Director General/ Additional Director General of DGGI should monitor cases of prosecution at monthly intervals and take the corrective action wherever necessary to ensure that the progress of prosecution is satisfactory. In DGGI, an Additional/ Joint Director in each zonal unit and DGGI (Hqrs) shall supervise the prosecution related work and take stock of the pending prosecution cases. For keeping a track of prosecution cases, entries of all prosecution cases should promptly be made in DIGIT/ Investigation Module, within 48 hours of sanction of prosecution and the entries must be updated from time to time. Additional/ Joint Commissioner or Additional/ Joint Director, in-charge of supervising prosecution cases shall ensure making timely entries in the database.

13. Compounding of offence:

13.1 Section 138 of the CGST Act, 2017 provides for compounding of offences by the Pr. Commissioner/ Commissioner on payment of compounding amount. The provisions regarding compounding of offence 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.

14. Transitional Provisions:

14.1 All cases where sanction for prosecution is accorded after the issue of these instructions 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.

15. Inspection of prosecution work by the Directorate General of Performance Management:

15.1 Director General, Directorate General of Performance Management and Pr. Chief Commissioners/Chief Commissioners, who are required to inspect the Commissionerates, should specifically check whether instructions in this regard are being followed scrupulously and make a mention of the implementation of the guidelines in their inspection report apart from recording of statistical data. Similarly exercise should also be carried out in DGGI.

16. Where a case is considered suitable for launching prosecution and where adequate evidence is forthcoming, securing conviction largely depends on the quality of investigation. It is, therefore, necessary for senior officers to take personal interest in the investigation of important cases of GST evasion and in respect of cases having money laundering angle and to provide guidance and support to the investigating officers.

17. To ensure proper training to the officers posted for prosecution work, the Pr. Director General, National Academy of Customs, Indirect Taxes and Narcotics (NACIN), Faridabad, should organize separate training courses on prosecution/arrests etc. from time to time and should incorporate a series of lectures on this issue in the courses organized for investigation. The Pr. Commissioner / Commissioner or Pr. ADG/ ADG of DGGI should judiciously sponsor officers for such courses.

19.17 Compounding of offences. [Section 138]

Section 138(1)	01.07.2017 to till date	Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:
First Proviso	01.07.2017 to 30.09.2023	Provided that nothing contained in this section shall apply to—
		(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;
		(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;
		(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;
		(d) a person who has been convicted for an offence under this Act by a court;
		(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and
		(f) any other class of persons or offences as may be prescribed:
	01.10.2023 to till date	Provided that nothing contained in this section shall apply to—
		¹ [(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;]
		² [(b) *****]
		³ [(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;]

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		the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.
Second Proviso	01.07.2017 to till date	Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:
Third Proviso	01.07.2017 to till date	Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.
Section 138(2)	01.07.2017 to 30.09.2023	The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.
	01.10.2023 to till date	<p>The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ¹[twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved.]</p> <div> <p>1. Substituted for the words “ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher”, vide Section 157(B) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>
Section 138(3)	01.07.2017 to till date	On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.