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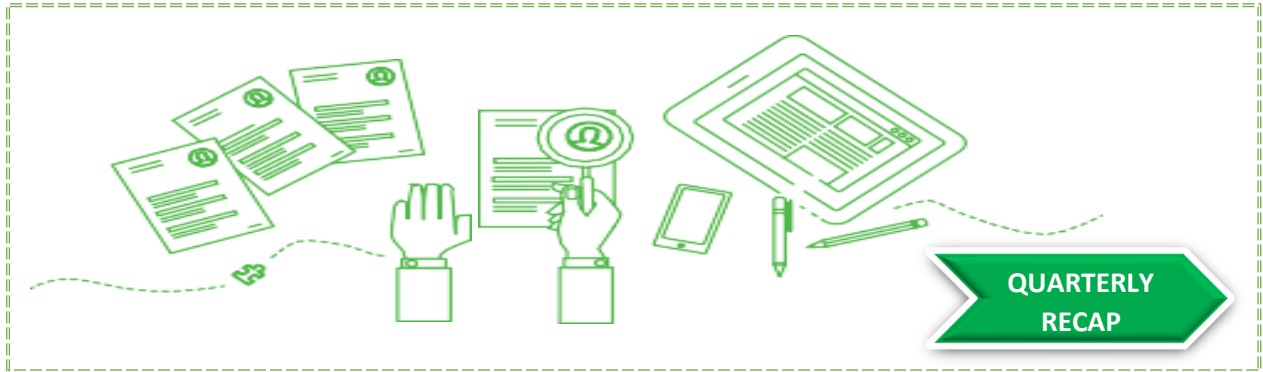


Newsflash - GST Quarterly Digest (October 2024 to December 2024)

GST Quarterly Digest
[October 2024 to December 2024]

For Circulation

29 January 2025



QUARTER AT A GLANCE

We are pleased to present the **GST Quarterly Digest**, summarizing the significant amendments, clarifications, case laws, notifications and circulars released during **October 2024 to December 2024**. The report incorporates key highlights under the Indirect Tax, providing a concise overview of the important updates during this period. The report also provides a few FAQs on the Amnesty Scheme and GST on Used Cars.



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The 55th GST Council Meeting

The 55th GST Council Meeting, held on December 21, 2024, like any other council meeting has brought a mix of changes aimed at improving the ease of doing business, streamlining compliances and amendments to provisions to smoothen the business operations.

Let us now analyze each of the council meeting recommendations in detail

Amendment to Section 17(5)(d) of the CGST Act – Clarification on “Plant and Machinery”	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> One of the key recommendations of the GST Council is amendment to Section 17(5)(d) of the CGST Act, 2017 wherein it has been recommended to replace the term "plant or machinery" with "plant and machinery." This recommendation is proposed as a retrospective amendment, effective from July 1, 2017, and seeks to align the provision with its legislative intent as defined in the explanation to Section 17. 	<ul style="list-style-type: none"> This recommendation addresses the question raised in the Safari Retreats Supreme Court judgement, whether "plant or machinery" could be interpreted in the same manner as "plant and machinery" under Section 17(5) of the CGST Act 2017. In the case of Safari Retreats, the Court held that ITC on “input” and “input services” used for construction of immovable property can be availed, subject to functionality test. This retrospective amendment nullifies the ruling and reinforces the policy makers view that ITC is not available on construction-related inputs unless they meet the conditions given under "plant and machinery." Taxpayers who have claimed input tax credit operating in the construction and real estate sectors, may have to reassess their input tax credit claims.

Reduction in Pre-deposit Amount for Penalty Appeals	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> To ease the financial burden on the taxpayers, the Council recommended reducing the mandatory pre-deposit for filing penalty appeals under the CGST Act: <ul style="list-style-type: none"> Before the Appellate Authority, the pre-deposit is proposed to be reduced from 25% to 10%. It is recommended to introduce a new provision for filing appeals before the Appellate Tribunal, a 10% pre-deposit where there is no tax demand. 	<ul style="list-style-type: none"> Under the GST Regulations, the taxpayers must deposit 10% of the disputed tax amount for filing of an appeal. In GST, the taxpayers must deposit 10% of the disputed tax amount for filing of an appeal. This recommendation is intended to reduce working capital requirements of the taxpayers, where penalty-only order was issued. This amendment reflects a taxpayer-friendly approach, encouraging compliance without unduly penalizing businesses. This reform is expected to enhance access to judicial remedies, reducing procedural roadblocks for taxpayers.

Tax Treatment of Vouchers	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council has recommended amending the GST provisions for treating the issue of voucher as neither supply of goods nor services. 	<ul style="list-style-type: none"> Voucher taxability has been a bone of contention, with differing rulings from Courts and Advance Ruling Authorities. The recommendation of categorizing vouchers as actionable claims and excluding them from

Tax Treatment of Vouchers	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> Principal-to-principal voucher distribution is exempt from GST, but commissions earned by agents will be taxable. Related services such as advertising or marketing will continue to attract GST. Income from unredeemed vouchers (breakage) will not be considered a supply, keeping it outside the purview of GST. <ul style="list-style-type: none"> Sections 12(4), 13(4), and Rule 32(6), which deal with the time of supply for issue of vouchers, will be omitted. 	<p>GST, the Council has brought much-needed clarity, reducing ongoing and potential litigation.</p> <ul style="list-style-type: none"> However, businesses offering ancillary services related to vouchers must still ensure compliance with GST provisions, as these remain taxable.

Tax Treatment of Goods Warehoused in SEZs or FTWZs	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> A new clause is being introduced in Schedule III of the CGST Act, 2017 retrospectively from July 1, 2017, to clarify that the supply of goods warehoused in Special Economic Zones (SEZs) or Free Trade Warehousing Zones (FTWZs), before clearance for export or domestic sales, is treated neither as supply of goods nor services. 	<ul style="list-style-type: none"> This clarification brings in parity for customs-bonded warehouses and removes uncertainties surrounding SEZ/FTWZ transactions. It brings in a relief to businesses by eliminating GST liabilities for past transactions and reinforces the government's commitment to fostering export-friendly policies.

Taxability of Sponsorship Services Under Forward Charge Mechanism	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council recommended shifting the tax liability on sponsorship services provided by body corporates to the forward charge mechanism (FCM) replacing the current reverse charge mechanism (RCM), under which the recipient of the sponsorship services is liable to pay GST. 	<ul style="list-style-type: none"> Under the existing framework, sponsorship services supplied to a body corporate are taxed under RCM, requiring the recipient to pay GST. While this simplified compliance for small or unregistered suppliers, it created cash flow challenges for recipients who could claim ITC only after making payments in cash. By moving sponsorship services provided by body corporates to FCM: <ul style="list-style-type: none"> Sponsors will directly pay the tax, allowing recipients to claim ITC without needing to first pay GST in cash. Other forms of sponsorship services, such as those provided by individuals or unincorporated entities, will continue under the RCM. While the change is welcome, similar reforms for other services under RCM (e.g., recovery agents) could further simplify compliance.

Relief for Composition Dealers – Exclusion from RCM on Renting Commercial Property	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council recommended exclusion of taxpayers operating under composition scheme from GST on renting of commercial property (other than residential dwelling) by unregistered person to registered person under reverse charge mechanism. 	<ul style="list-style-type: none"> The introduction of RCM for commercial property rentals under Notification No. 09/2024 created burden on composition taxpayers. By excluding composition taxpayers from this provision, the Council has alleviated compliance and working capital challenges on composition taxpayers. This aligns with the broader goal of simplifying the tax regime for micro and small enterprises.

Inclusion of Inter-State RCM Transactions in ISD Mechanism	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST Council recommended changes to Sections 2(61) and 20(1) of the CGST Act, 2017 to include inter-state transactions attracting reverse charge mechanism (RCM) transactions under the Input Service Distributor (ISD) mechanism. The amendment will be implemented from April 1, 2025. 	<ul style="list-style-type: none"> This recommendation enables input service distributors to avail ITC on transactions which attract RCM on inter-state transactions. This amendment helps the ISD taxpayers to effectively utilize the input tax credit and improves the bottom line.

Clarifications on "Local Authority" and Related Funds	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council proposed inserting an explanation in Section 2(69) of the CGST Act, 2017 to define "local fund" and "municipal fund" explicitly. 	<ul style="list-style-type: none"> Ambiguities in defining "local authority" have caused interpretational inconsistencies across jurisdictions. This clarification resolves such issues, ensuring uniformity in GST application to local bodies.

Enhancements to Invoice Management System (IMS)	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council recommended changes to the newly introduced functionality of IMS with the GST framework to streamline the input tax credit claim process, including amendments to: <ul style="list-style-type: none"> Section 38 for ITC communication. Section 34(2) for ITC reversals linked to credit notes. Section 39(1) and Rule 61, mandating the availability of GSTR-2B before filing GSTR-3B. 	<ul style="list-style-type: none"> IMS aims to streamline input tax credit claim process and reduce common mistakes in filing of GSTR-3B. Making IMS functionality legally binding aligns it with the matching concept of the GST framework, ensuring better compliance and minimizing disputes.

Temporary Identification Numbers for Non-Registered Persons	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> A new Rule 16A is proposed for generating Temporary Identification Numbers (TINs) for unregistered persons required to make GST payments 	<ul style="list-style-type: none"> This provision facilitates compliance for unregistered persons involved in specific transactions, such as penalty payments or appeals. It simplifies the process and

Temporary Identification Numbers for Non-Registered Persons	
Recommendation	Analysis and Implications
	minimizes procedural hurdles, particularly for one-time interactions with the GST system.

Track and Trace Mechanism for Evasion-Prone Goods	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> A new Section 148A in the CGST Act, 2017 will empower the Government to introduce a track-and-trace mechanism for high-risk commodities. Unique Identification Marks will be affixed on such goods. 	<ul style="list-style-type: none"> This mechanism helps to detect tax evasion in specific sectors. It promotes fair competition, strengthens compliance monitoring across the supply chain and brings in transparency.

Place of Supply for Online Services	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council had recommended that for online services like gaming and OIDAR, the supplier must show the recipient's state name on the tax invoice. This state will determine the place of supply. 	<ul style="list-style-type: none"> This clarification eliminates ambiguity for suppliers, ensuring accurate GST allocation across states. It streamlines compliance and prevents disputes over place of supply for online services.

Revised Taxation of Hotel Accommodation and Restaurant Services	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council has recommended dropping the term "declared tariff" and bringing in changes to the definition of "specified premises" in GST provisions. The GST rate for restaurant services in hotels will now be based on the actual value of the supply of accommodation provided in the previous financial year. Key changes include: <ul style="list-style-type: none"> Accommodation units with actual supply value exceeding ₹7,500 in the previous year can opt for 18% GST with ITC availability. Restaurant Services can opt for either: <ul style="list-style-type: none"> 18% GST with ITC, or 5% GST without ITC. Hotels must declare their option before the financial year or during registration in case of new hotels. These proposed changes will be effective from April 1, 2025. 	<ul style="list-style-type: none"> Previously, hotels faced taxation based on the "declared tariff," a legacy concept from the luxury tax regime. This often led to confusion, particularly in cases where discounts reduced the actual transaction value. By linking GST rates to actual supply value, the amendment provides clarity and aligns with GST provisions. Moreover, the optional 18% GST rate with ITC for restaurants in hotels offers flexibility and can enhance the competitive positioning of higher-end establishments.

GST Exemption on Penal Charges by Banks and NBFCs	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council clarified that penal charges levied by banks and non-banking financial companies (NBFCs) for non-compliance with loan terms do not attract GST. 	<ul style="list-style-type: none"> While GST applies to service charges, penal charges - defined as deterrents for breaches - are now excluded from GST levy. This clarification is in line with the earlier judicial rulings and regulatory circulars, offering relief to financial institutions and their customers by reducing disputes over tax applicability.

Exemption for RBI-Regulated Payment Aggregators	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council has recommended clarifying that RBI-regulated payment aggregators qualify for GST exemption on transactions up to ₹2,000 under Sl. No. 34 of Notification No. 12/2017. The recommendation excludes fintech services and payment gateways without settlement functions are excluded. 	<ul style="list-style-type: none"> The recommendation is line with the RBI guidelines distinguishing payment aggregators, which handle fund settlements, from payment gateways, which merely provide infrastructure. This clarity eliminates ambiguity for financial institutions and supports the promotion of cashless transactions by reducing compliance burdens for small-ticket transactions.

ITC Provisions for Electronic Commerce Operators (ECOs)	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council clarified that ECOs are not required to reverse ITC for services taxed under Section 9(5) of the CGST Act. 	<ul style="list-style-type: none"> Certain services, like restaurant services, are taxed at a concessional rate under Section 9(5), with GST liability falling on ECOs. These services are classified as "exempt supplies", leading to disputes with respect to ITC reversals. The Council's recommendation brings an end to the dispute of availing input tax credit by the ECOs on their platform services. This ensures smoother compliance and encourages seamless operations for e-commerce platforms.

Redefinition of "Pre-Packaged and Labelled" Goods	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST Council recommended amending the definition of "pre-packaged and labelled" to align with the Legal Metrology Act. This change will apply to retail-sale commodities containing quantities of up to 25 kg or 25 litres, provided they are pre-packed or have a label affixed. 	<ul style="list-style-type: none"> Currently, ambiguity exists regarding the classification of goods as "pre-packaged and labelled," leading to disputes over applicable GST rates. This amendment ensures consistency between the GST framework and the Legal Metrology Act. By restricting the definition to smaller retail quantities, this change also addresses concerns from businesses about larger bulk

Redefinition of "Pre-Packaged and Labelled" Goods	
Recommendation	Analysis and Implications
	packages being unintentionally brought under higher tax rates.

GST Exemption on Fresh or Dried Pepper & Raisins Supplied by Farmers	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council has recommended the supply of fresh or dried pepper and raisins supplied by agriculturists will be an exempted supply. 	<ul style="list-style-type: none"> This exemption aligns with the GST regime's principle of supporting the agriculturists are not to be taxed under GST. Taxpayers who are intermediaries such as traders or processors will still be taxed under GST.

Input Tax Credit (ITC) on Ex-Works Contracts	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council clarified that in ex-works contracts, where goods are handed over to the recipient or their transporter at the supplier's premises, ITC can be claimed under Section 16(2)(b) of the CGST Act. 	<ul style="list-style-type: none"> Ex-works contracts have raised concerns about whether goods delivered at the supplier's location should be considered as "received" by the recipient. This clarification affirms that such transactions meet the ITC eligibility criteria, reducing litigation and promoting seamless credit claims.

Reduced Compensation Cess for Merchant Exporters	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> Another important recommendation of the GST Council is the reduction of the GST Cess rate to 0.1% on purchases made by merchant exporters. 	<ul style="list-style-type: none"> This recommendation reduces working capital requirements for exporters and improves competitiveness in the global markets. The recommendation of the GST Council is in line with the Governments policy to promote exports.

Late Fee Applicability for GSTR-9 and GSTR-9C Filing	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST Council has recommended a one-time late fee waiver to the taxpayers for delay in filing of GSTR-9 and 9C for the FY2017-18 to 2022-23 if the returns are filed by 31st March 2025 	<ul style="list-style-type: none"> The recommendation of waiver of late for the past periods is a welcome move where the taxpayers who have missed it in filing can now utilize this opportunity and file GSTR-9 and 9C. The filing will ensure that there are no compliance issues and saves the taxpayers from huge amount of late fee payable.

GST Exemption for Gene Therapy	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST Council has recommended exemption for gene therapy treatment from the levy of GST. 	<ul style="list-style-type: none"> Gene therapy was taxed previously at 12%, this exemption makes gene therapy more affordable to patients who seek treatment for life threatening conditions like cancer, genetic disorders or heat treatment in certain cases. This exemption is line with the Government's vision of making in providing affordable healthcare.

Exemption for Components Used in Long-Range Surface-to-Air Missile (LR SAM) Systems	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST Council has proposed exempting IGST on components, equipment's and tools used for the assembly and manufacturing of LR SAM systems. 	<ul style="list-style-type: none"> The proposed exemption provides a boost to the defence sector by way of reduction in the procurement costs and is aligning with the Make in India initiative. This exemption will boost the indigenous defence manufacturing and make India self-reliant in the defence sector in the long run.

Exemption for IAEA Inspection Equipment and Samples	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST Council has also recommended IGST exemption to the International Atomic Energy Agency (IAEA) inspection teams for the import of equipment and consumables used by them. 	<ul style="list-style-type: none"> The exemption provided to IAEA reiterates India's stand towards the nuclear safeguards and long-standing commitment peaceful nuclear activities. This proposed exemption provides lesser financial burden and compliance to team from IAEA visiting our country.

Reduced GST Rate for Food Inputs in Free Distribution Programs	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council proposed extending the concessional 5% GST rate to food inputs used for preparing meals distributed under government programs for economically weaker sections. 	<ul style="list-style-type: none"> By reducing input costs for these programs, the government aims to amplify their social welfare impact. The recommendation ensures affordability and wider reach of food aid initiatives, reinforcing the government's commitment to social equity.

GST on Ready-to-Eat Popcorn	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council clarified the applicable GST rates for various types of ready-to-eat popcorn: <ul style="list-style-type: none"> Non-pre-packaged: 5% Pre-packaged: 12% Sugar-coated (e.g., caramel popcorn): 18% 	<ul style="list-style-type: none"> This clarification resolves disputes over popcorn classification and eliminates ambiguities about applicable rates. By categorizing sugar-coated popcorn as confectionery, the Council ensures consistency with GST treatment of similar products.

Reduced GST on Fortified Rice Kernels (FRK)	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST rate on FRK, used for nutrition enhancement, is reduced to 5%. 	<ul style="list-style-type: none"> The reduction makes fortified rice more affordable, supporting government initiatives to combat malnutrition. It promotes wider adoption of nutrient-rich food, aligning with health and nutrition goals.

Revised GST Rate for Old and Used Vehicles	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The GST rate on old and used vehicles, including EVs, is increased to 18%. The rate applies only to the margin of sale (purchase price minus selling price; depreciated value if depreciation is claimed) for registered suppliers. 	<ul style="list-style-type: none"> This move harmonizes tax rates across vehicle categories, addressing classification disparities. However, the increased rate may slightly affect the second-hand car market. Unregistered persons remain outside the purview of this change.

Classification of AAC Blocks with Fly Ash Content	
Recommendation	Analysis and Implications
<p>The Council clarified that autoclaved aerated concrete (AAC) blocks with over 50% fly ash content will attract 12% GST and fall under HSN 6815.</p>	<ul style="list-style-type: none"> This resolves classification disputes and incentivizes the use of environmentally sustainable construction materials, promoting eco-friendly practices in the construction sector.

GST Exemption on Contributions to the Motor Vehicle Accident Fund	
Recommendation	Analysis and Implications
<ul style="list-style-type: none"> The Council recommended exempting GST on contributions made by general insurance companies to the Motor Vehicle Accident Fund, which supports road accident victims. 	<ul style="list-style-type: none"> This exemption alleviates financial burdens on policyholders and highlights the government's focus on public welfare. It ensures that funds intended for accident relief are fully utilized for their purpose.

Some FAQs: GST Waiver Scheme under Section 128A

The Amnesty Scheme under Section 128A of the CGST Act proposes to put an end to a lot of the litigation especially in the earlier stages of GST implementation. In this section, our indirect tax experts answer a few frequently asked questions on this scheme.

Q1. Who is eligible to apply for the GST waiver scheme under section 128A?

- The amnesty scheme under Section 128A is primarily designed to cover demands raised under Section 73. These may include genuine cases involving short payment of tax or excess claims of input tax credits, particularly where the issue stems from alternate interpretations of the evolving GST law.*



- However, it is also important to note that this scheme does not extend to cases of erroneous refunds, where a taxpayer may have claimed and received refunds they were not entitled to. Additionally, Section 74 cases are excluded from the scope of this amnesty scheme. Section 74 deals with situations involving fraud, wilful misrepresentation, or suppression of facts.

Q2. What are the conditions to apply for the GST waiver scheme under section 128A? Do taxpayers need to pay 100% of the tax amount in dispute?

- In a situation where to avoid litigation or for peace of mind, the taxpayer has already paid the interest and penalty, such taxpayer will not get benefit of amnesty. Interest and penalty already paid will not be refunded. Further, as mentioned above, amnesty benefits are only available where the order or notice is in relation to non-fraudulent situations.
- The second condition is that amnesty benefits are not automatic and require an application to be filed within a specific deadline. An application in prescribed form (GST SPL-01 or GST SPL-02) need to be filed within the timeline.
- The third condition is that the tax amount but not necessarily the interest and penalty needs to be paid. Where the notices are not yet adjudicated, the payment towards tax demanded needs to be done electronically by 31st March 2025 for all standard cases. For certain cases, a special deadline of 6 months from date of communication of order has been mentioned. Taxpayers need to submit proof of payment in Form DRC 03 along with the application in GST SPL-01 or GST SPL-02.



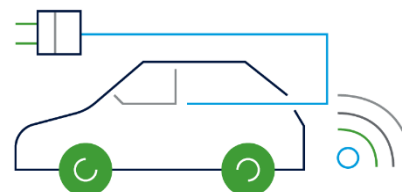
Q3. Is there any deadline to apply for the GST waiver scheme under section 128A?

- Yes, there is a standard deadline stipulated for making an application to avail amnesty benefits under Section 128A. As per departmental circulars, the deadline for the standard amnesty applications is 31st March 2025 and this is the standard deadline for both making application and doing payment of tax disputed.

Explaining GST on Used Cars

In light of the new GST Council recommendations, what exactly has changed in relation to sale of old used motor cars?

- The GST Council, in its Meeting at Jaisalmer has approved an increase in the GST rate from 12% to 18% on the sale of all used cars, including the electric vehicles. Prior to this announcement, there was a GST 18% on sale of certain used cars with specific engine size, capacity i.e. 1200 cc/ 1500cc or more and dimensions (based on length). Electric vehicles were not subjected to the 18% rate and were taxed at 12%. Similarly petrol, diesel and CNG vehicles with engine size smaller than 1200 cc and not exceeding length dimension specified were also taxed at 12%. Now with a uniform rate of 18% proposed across all types of transactions of sale involving used cars, the GST Council has proposed to reduce discrepancy in taxation of used cars.



- *Further, as per the CGST Rules, the rate of 18% will continue to apply on the Value that represents Margin of the Supplier, that is, the difference between the Purchase price and Selling price (depreciated value if depreciation is claimed) and not on the value of the vehicle. Also, it is not applicable in case of unregistered persons, as has been suitably clarified in the Press Release issued by the GST Council.*
- *Thus, with this clarification it is abundantly clear that private transactions (i.e. between unregistered persons) involving sale of used cars will not attract GST. In other words, GST will only apply where the GST registered dealer or marketplace is selling a used vehicle.*

How is GST calculated when buying a second-hand car?

- *GST on sale of second hand car shall be charged by the dealer or marketplace who is registered. This GST will be calculated on the Margin of the Supplier i.e. the difference between the Purchase Price and the Selling Price. It needs to be clarified that GST at 18% will not be applicable on the full sales value of the vehicle and will be levied only on the difference between the sale value and purchase price. Also, if the dealer spends any amount on the improvement of the vehicles, the amount spent cannot be reduced to calculate this Margin of the Supplier.*
- *Let us explain this with a simple example. Suppose a car dealer buys a car for Rs. 10 lakhs, spends an additional Rs 2 lakhs on its repairs and maintenance post purchase and then sells the vehicle for Rs 15 lakhs, in this case the Margin of the Supplier will be Rs 5 lakhs. Thus, GST at 18% will apply on Rs 5 lakhs. In respect of the amount of Rs 2 lakhs spent on repairs, these cannot be added to Purchase Price.*
- *Another situation can arise that suppose the registered dealer has claimed depreciation under Income Tax Act on the used vehicle. Let us say the depreciation claimed is Rs 1 lakh. In this case, the Purchase Price as per GST rules will be the depreciated value of the asset i.e. Rs 10 lakhs less Rs 1 lakh = Rs 9 lakhs. Thus, the Margin of Supplier will now be Rs 6 lakhs because of the reduction of depreciation claimed from the purchase price. Accordingly, GST at 18% will now apply on Rs 6 lakhs.*

Case Law Alerts

GST Case Law Alert

01

PETITIONER / RESPONDENT

Petitioner: Lakshmi Periyasamy

Respondent: State Tax Officer, Vanagaram
& Anr

02

COURT/ FORUM

Court of Filing: High Court of Madras

03

GROUNDS OF WRIT

The Petitioner, aggrieved by the impugned order issued under Section 62 of the GST Act, has filed this Writ Petition. It is argued by the Petitioner that the impugned order, being issued in the name of a deceased person, is void ab initio and ought to be quashed as it lacks jurisdiction. Relying on prior judgments, the Petitioner asserts that an order directed at a deceased individual is invalid and, if necessary, must be issued to the legal heirs.

04

ORDER

The Court has disposed of the Writ Petition and quashed the impugned order.. It observed that while Article 226 is generally not applicable when an alternative remedy exists, exceptions can be made in certain cases. The Court further ruled that an order issued in the name of a deceased person holds no legal validity. Accordingly, the Respondents have been directed to issue a consolidated notice, if necessary, to the legal heirs within 30 days of receiving a copy of this judgment.

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GST Case Law Alert

01

PETITIONER / RESPONDENT

Petitioner: Champions Steel Industries
Private Limited
Respondent: Union of India & Ors.

02

COURT/ FORUM

Court of Filing: Bombay High Court.

03

GROUNDS OF WRIT

The petitioner challenged the validity of a show-cause notice (SCN) and the Order-in-Original (O-I-O) issued by the GST authorities. The primary contention was that the notices were sent to an incorrect address, violating the principles of natural justice. The petitioner argued that there was no evidence to prove proper service of the notices at the correct registered address.

04

ORDER

The Bombay High Court quashed the O-I-O and remanded the matter back to the GST authorities for re-adjudication. The Court held that Merely because notice and O-I-O did not return back does not mean that it has been served on the petitioner at its correct address. The court directed that all future correspondence, including notices, must be sent to the petitioner's correct registered address and email.

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29th January 2025

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