

TAXWIZ

16th December, 2020



Important new compliance measures are set to be launched from 1st January 2021. QRMP – It remains to be seen whether it is really going to enthuse the MSME sector or not. When the monthly payment requirement is only for crediting the tax component in cash ledger and not its remittance to Govt., the Government would have very well made the scheme into QRQP. Insistence by B2B recipients to upload the invoices on monthly basis, using the Invoice Furnishing Facility would take the sheen out of the scheme.

The requirement of E-invoicing is set to be extended to all those who are part of the 100 Crore club. The earlier coverage for only those from the 500 crore club being seamless and smooth, it is expected to be so for the enhanced base also.

Table Of Content

| | |
|---|---------------------------|
| 1 | GST Case Laws |
| 2 | Notifications & Circulars |
| 3 | News |
| 4 | GST Portal Updates |
| 5 | Customs |
| 6 | The Legacy |
| 7 | From our Knowledge House |





GST CASE LAWS

1 SKILL LOTTO SOLUTIONS PVT LTD 2020-VIL-37 SC

Levy of GST on Lottery upheld by the Hon'ble Supreme Court.

2 ANSARI CONSTRUCTION 2020-VIL-609-ALH

Once the returns are filed, cancellation of registration should be revoked and the assessee should not be made to run from pillar to post.


3 SHIRDHI SAINNADH INDUSTRIES 2020-VIL-591-AP

Milling of rice from paddy is job work and once GST is paid on the remuneration for milling, the value of broken rice, husk etc. allowed to be retained by the miller, need not be included in the value of job work

4 RANCHI CORPORATIONS CARRYING 2020-VIL-617-ALH

Notice issued to driver and order affixed on the truck - Not a proper service - HC



4  What is the GST officer doing?

Serving the Order Copy?



5 VRINDHA ENGINEERS 2020-VIL-317-AAR

Fabrication of structures on job work basis and works contract of painting are not naturally bundled and hence a mixed supply.





1 M/S. ATCG INDIA 2020 (12) TMI 356 – Appellate Authority

Goods purchased for resale are not inputs - Refund of inverted rate structure denied.



Hangover from Cenvat era that inputs should be used in manufacture?





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS - 01.12.2020 to 15.12.2020

| NO | DATE | GIST |
|----|------------|---|
| 90 | 01.12.2020 | Mandates mention of 8 digit HSN for certain goods. |
| 91 | 14.12.2020 | Seeks to extend the due dates for compliances and actions in respect of anti-profiteering measures under GST till 31.03.2021. |

CGST CIRCULARS - 01.12.2020 to 15.12.2020

| NO | DATE | GIST |
|-----|------------|---|
| 144 | 15.12.2020 | Refund claims by United Nations Organisations - waiver from recording of UIN on the invoices issued by the retailers/suppliers, extended upto March 2021. |

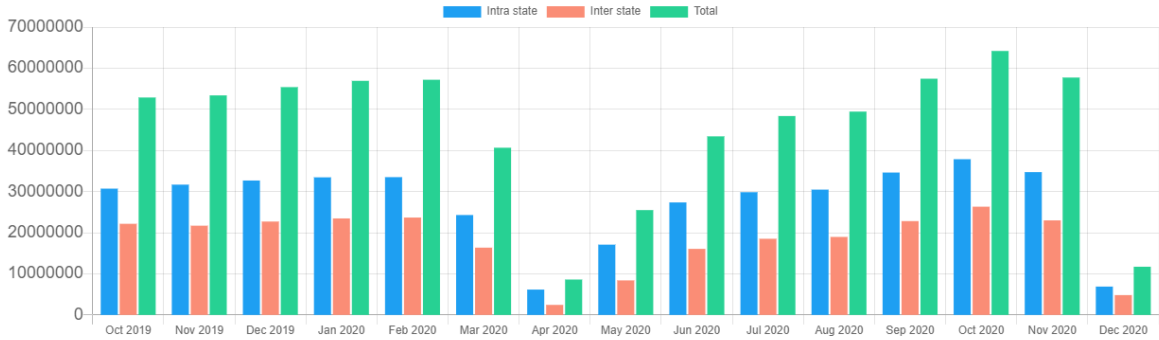




REVENUE AND STATISTICS

E-Way Bill Statistics

As on 6th December, 2020



GST System Statistics

As on 6th December, 2020



1.28 Cr.

Registered Tax Payer



57.20 Cr.

Total Return Filed



155 Cr.

E-way Bill



1065 Cr.

Total Invoice Upload



28.72 Lakh Cr.

Payment Through the Portal
(Excluding IGST on Imports)



16.40 Cr.

Total No. of Payment
Transactions



23.86 Lakh

Highest Returns Transactions
in a day



9.55 Lakh

Highest Payment Transactions
in a day





REVENUE AND STATISTICS

As a part of [#AatmaNirbharBharat](#) Abhiyaan additional borrowing limit of up to 2% of Gross State Domestic Product (GSDP) has been allowed to the States for the year 2020-21, equivalent to Rs. 4,27,302 crore.



DEPARTMENT OF EXPENDITURE

Additional Borrowing of 2% of GSDP to States, equivalent to Rs.4,27,302 crore

As a part of Aatma Nirbhar Bharat Abhiyaan, additional borrowing limit of up to 2% of Gross State Domestic Product (GSDP) was allowed to the States for the year 2020-21.

Out of the additional 2% allowed to States, 0.50% amounting to **Rs.1,06,830 crore** was unconditional and allowed immediately to States on 24.06.2020.

1% of this is subject to implementation of four specific State level reforms:

- One Nation One Ration Card System** - additional borrowing amounting to **Rs.23,523 crore** has been permitted to 09 States (Andhra Pradesh, Goa, Gujarat, Haryana, Karnataka, Kerala, Telangana, Tripura and Uttar Pradesh)
- Ease of doing business reform** - additional borrowing amounting to **Rs.14,355 crore** has been permitted to 4 States (Andhra Pradesh, Karnataka, Tamil Nadu and Telangana).
- Urban Local body/ utility reforms** - additional borrowing amounting to **Rs.2,373 crore** has been permitted to the State of Madhya Pradesh.
- Power Sector Reforms**

Remaining 0.50 percent of GSDP was conditional to implementation of three out of four reforms. This condition was relaxed for the States opting for Option-1 of borrowing under GST compensation shortfall. All States have already favored Option-1 and additional borrowing permission of **Rs.1,06,830 crore** has been granted to these States.



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LINK: <https://twitter.com/FinMinIndia/status/1337600987230441473>



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GSTN Portal Updates

- **An Offline Tool for entering invoices using a simple and user friendly form and to generate IRNs**

Link:

https://einvoice1trial.nic.in/Documents/Gepp_user_manual.pdf

- **E-Invoice System provides Resolution for Common Errors**

Link:<https://einvoice1trial.nic.in/Others/ResolutionErrors>

- **Advisory on Auto population of details in Form GSTR-3B from Form GSTR 1 & 2B**

Link:https://tutorial.gst.gov.in/downloads/news/auto_population_of_details_in_gstr3b_5122020.pdf



- QRMP scheme launched for GST payers with turnover of up to Rs.5 crores.

Introducing Quarterly Return Monthly Payment (QRMP) Scheme

For smooth transition to the QRMP scheme, the system has already assigned monthly and quarterly return filing frequencies to 1.09 crore registered taxpayers depending on their previous year annual aggregate turnover and filing of OCT-20 Form GSTR-3B.

What do I need to check?
Please check your registered email address (including spam) for more details.

What can I do?

- You may also change your frequency by navigating to Log in > Services > Opt in for QRMP scheme.
- Remember the last date for opting in / opting out is 31.01.2021 for the quarter Jan-Mar 2021.

To opt in for the scheme —> Login > Services > Returns > Opt-in for quarterly return

[/gstsystemsindia](#) [Infosys_GSTN](#) [/GoodsandServicesTaxNetwork](#)

LINK: http://gstcouncil.gov.in/sites/default/files/gst-articles/07-12-2020_qrmp.pdf

- Govt. cancels registration of 163k business entities over non filing of returns
- All 28 States and Union Territories have decided to opt for the Compensation formula suggested by the Centre to meet the revenue short fall arising out of the GST implementation.

LINK: <https://www.hindustantimes.com/india-news/govt-cancels-gst-registration-of-163k-biz-entities-over-non-filing-of-tax-returns/story-v8C77I7c5Pk2WBw05GdqN J.html>



• Pandemic Hit States indebtedness may soar 36% to Rs. 68 Lakh Crores this year.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/02-12-2020_state%20debt.pdf

• Fictitious transactions racket of Rs. 290.70 Crore busted by Directorate General of GST Intelligence, Nagpur. Arrest of Director of M/s M & M Advisors & Consultants Private Limited at Mumbai. Recovery of Input Tax Credit of Rs. 25.22 Crore in Cash.

• **LINK:**<https://pib.gov.in/PressReleasePage.aspx?PRID=1678844>

• QR payments deadline pushed.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/01-12-2020_QR%20payment.pdf

• CBIC issues Standard Operating Procedure for Tax officers to curb GST fake invoice menace.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/01-12-2020_SOP%20on%20tax%20evasion.pdf

• GST enables facility of Communication between supplier and recipient on GST portal.

• **LINK:**http://gstcouncil.gov.in/sites/default/files/gst-articles/01-12-2020_SOP%20on%20tax%20evasion.pdf





CUSTOMS

CASE LAWS

1 M/S. ZITAN TRADING CORPORATION 2020 (12) TMI 203 - TELANGANA HIGH COURT

States cannot interfere with discretionary power of the UOI and the DGFT in matters of export policy in granting license for export of Red Sander Wood in log form.

2 M/S. NIKOM COPPER AND CONDUCTORS PVT. LTD. 2020 (12) TMI 138 - BOMBAY HIGH COURT

Proper Officer causing Seizure should have reason to believe that the goods are liable for confiscation and record the same in the seizure memo. Otherwise seizure is illegal.

3 EXIM INCORPORATION 2020 (12) TMI 329 - BOMBAY HIGH COURT

There is no provision under Customs Act authorising detention of goods. Detention would be at a stage after seizure. There cannot be any detention of goods beyond one year even in the case of seizure without issuing show-cause notice under section 124(a) of the Customs Act.

4 GLOBAL ACE SHIPPING LINES INC. 2020 (12) TMI 379 - BOMBAY HIGH COURT

The imposition of the condition that there should be bank guarantee for an amount equivalent to five times of the market value of the vessel liable for confiscation is wholly untenable when the maximum fine payable cannot exceed the value of the smuggled goods transported in such vessel.





CUSTOMS

5 VKC NUTS PVT LTD 2020 (12) TMI 326 - CESTAT AHMEDABAD

Benefit of DFIA cannot be denied for non mention of specific name of input in the license when broad description is available .

6 SMT. LALTANPUII 2020 (12) TMI 377 - CESTAT KOLKATA

The betel nut is not notified under Section 123 of the Customs Act, 1962 and therefore, the burden of proof to establish foreign origin lies with the department.

7 S.R. TRADERS 2020 (12) TMI 503 - CESTAT NEW DELHI

Sony India decision not fully distinguished by Bombay High Court and as such following the Delhi High Court decision it is held that limitation of one year period from the date of payment of SAD will not apply and accordingly revenue appeal dismissed.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

ANTI-DUMPING NOTIFICATIONS – 01.12.2020 to 15.12.2020

| NO | DATE | GIST |
|---------|------------|---|
| 42/2020 | 01.12.2020 | Anti-dumping duty on Dichloromethane from China Extended till 31st Jan 2021 |
| 43/2020 | 02.12.2020 | Anti-dumping duty imposed provisionally on Toluene Di Isocyanate imported from EU, Saudi Arabia, China and UAE for a period of 6 months. |
| 44/2020 | 03.12.2020 | Anti-dumping on Cold Rolled Flat Products of Stainless Steel extended til 31st Jan 2021 |
| 45/2020 | 03.12.2020 | Anti-dumping duty on imports of "Nylon Tyre Cord Fabric " from China is revoked. |
| 46/2020 | 07.12.2020 | Anti-dumping duty on Float Glass from China extended till 6th Feb 2021 |
| 47/2020 | 15.12.2020 | Dimethylacetamide from China and Turkey with certain technical specifications meant for use spandex yarn manufacturing will not attract ADD |





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1. TVL. GENUS ELECTROTECH LIMITED 2020 (12) TMI 237 - MADRAS HIGH COURT

Assistant Commissioner Sales Tax has jurisdiction only over the transactions happening in the State.

2. M/S. ALUMATIC CANS PVT LTD 2020 (12) TMI 431- CESTAT MUMBAI

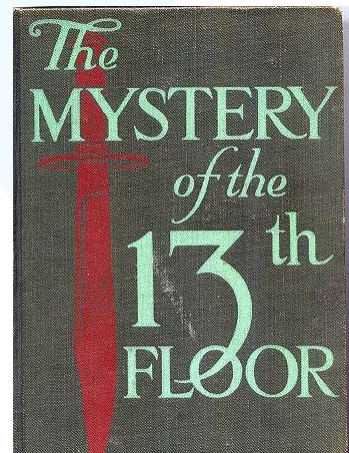
Refund under Rule 5 of CCR is only for Physical exports and not for deemed exports.



Is there any deemed refund for deemed exports?

3. M/S. MAN INFRA PROJECTS 2020(12) TMI 317 - CESTAT MUMBAI

As there were 13 floors in the complex, it does not mean that the complex has more than 12 residential units, as some of the units were Duplex units. As there are less than 12 units, refund of Service Tax wrongly paid to be given.





THE LEGACY

CENTRAL EXCISE AND SERVICE TAX CASE LAWS

4 MOHAN INTERNATIONAL BUILDERS 2020 (12) TMI 281 CESTAT CHANDIGARH

Service tax is paid on a portion of value for Works Contract Services, does not make it an exempt service to that extent. Rule 6 of CCR not applicable.

5 M/s SUNDARAM INDUSTRIES LIMITED 2020-VIL-532-CESTAT-CHE-ST

For a Works Contract, Service Tax can be paid on the gross amount, by availing Cenvat Credit and Rule 2 A cannot be compelled. .





FROM OUR KNOWLEDGE HOUSE

Link to important Webinars Participated by Swamy Associates

VIDEO LINK

Informal Conversation about QRMP by Sanjana Sri S.G & Pallavi Ganesh - Advocates (Madras Tax Bar)

<https://www.youtube.com/watch?v=HDcYdC3uyUI&feature=youtu.be>

ARTICLE

Government wins Lottery by G. Natarajan – Advocate

<https://www.swamyassociates.com/downloads/2020/19.%20Government%20wins%20Lottery%20-%20G.%20Natarajan.pdf>





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