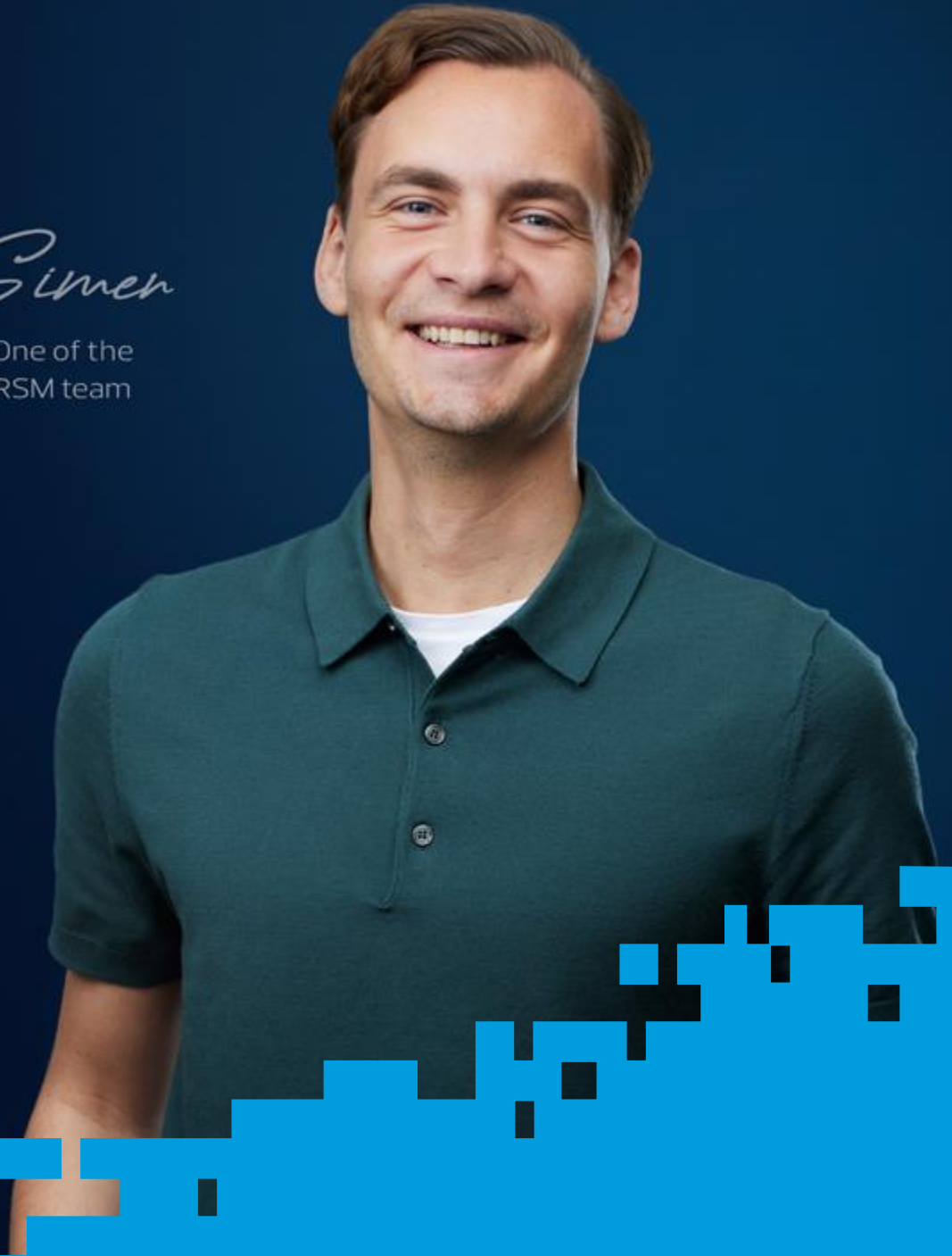


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Newsflash

GST Quarterly Digest

[January 2024 to March 2024]

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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 **January 2024 to March 2024**. The report incorporates key highlights under the Indirect Tax, providing a concise overview of the important updates during this period.

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KEY HIGHLIGHTS

CHANGES PROPOSED IN RESPECT OF INPUT SERVICE DISTRIBUTOR (ISD) MECHANISM IN THE INTERIM BUDGET 2024

- The major indirect tax change in the Interim Budget 2024 is with respect to the ISD mechanism. The proposed changes, if enforced, would **necessitate mandatory GST registration as an ISD** to the applicable taxpayers who have a presence in more than 1 state. Further, the amended definition seeks to **include transactions of reverse charge procurements** under the purview of ISD mechanism, thereby broadening the scope of ISD.
- Keeping in mind the proposed budgetary changes, **the companies having multi-state presence would be required to evaluate GST implications surrounding ISD registration and related compliances** which may become applicable to them once the amended provisions are made effective. One would have to adopt a wait and watch approach as it is unclear as to how the mechanism would be implemented and enforced. There are contrary judgements with respect to mandatory status of ISD for companies having multi-state registration.



GST PORTAL – NEWS AND UPDATES

[Advisory for furnishing bank account details by registered taxpayers under Rule 10A of CGST Rules, 2017](#)

As per Rule 10A of CGST Rules, 2017, every taxpayer who gets successfully registered under GST is mandatorily required to furnish valid bank account details on the GST portal as per the **earlier of the following timelines:**

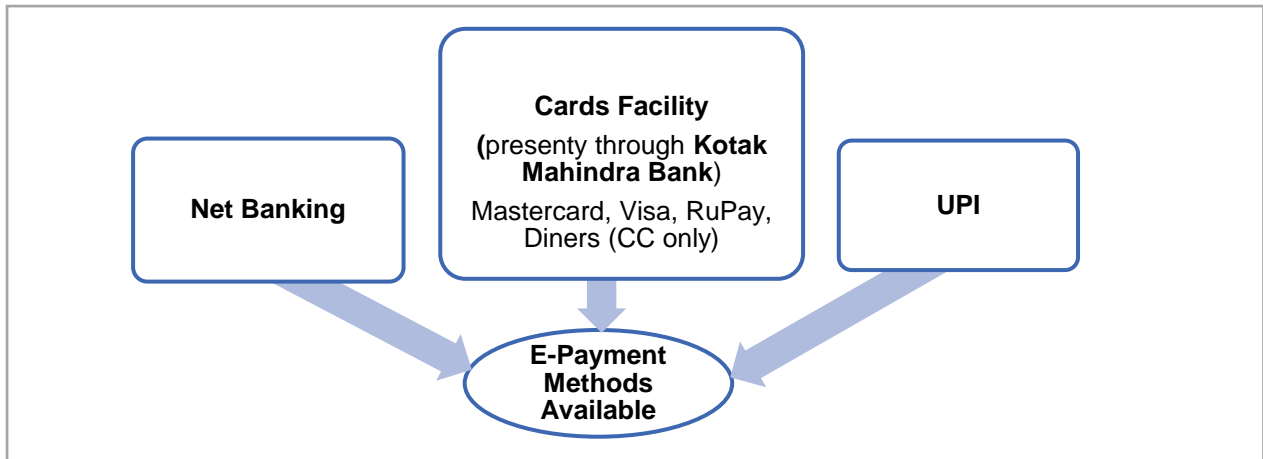
- 30 days from grant of registration certificate
- Due-date of filing the details of outward supply in Form GSTR1/IFF

Goods and Services Tax Network (GSTN) is in process of implementing a new functionality which shall ensure below actions towards non-adherence with the regulations:

- **Failure to furnish the bank account details** within the specified timeline shall result in the **suspension of the registration certificate** of the taxpayers.
- Intimation of the same would be served vide notice in Form GST REG 31. Additionally, taxpayers would be **restricted from filing any subsequent GSTR1/IFF**.
- The suspension may be revoked once the taxpayer furnishes the relevant details within 30 days of intimation. In a case **where non-compliance persists**, the process of **cancellation of the registration certificate may be initiated** against such taxpayers.

[Advisory on Payment through Credit Card \(CC\)/Debit Card \(DC\) and Unified Payments Interface \(UPI\)](#)

- To equip taxpayers with additional options for processing GST payments, two new methods of e-payment have been introduced which are **Cards and Unified Payments Interface (UPI)**, besides **the existing option of net-banking**. Thus, the taxpayer shall now have the following alternates while making online payment on the GST portal:



Instances of Delay in GST registration reported by some taxpayers despite successful Aadhaar Authentication

- The process of verification and grant of new GST registrations has become stringent and robust documentary submission have been mandated by the departmental authorities pursuant to the conduct of nationwide fake registration identification drive.
- It has been informed vide the captioned advisory that as per Rule 9 of CGST Rules, 2017, where a person who has applied for a new GST registration and as well completed the procedure of Aadhaar authentication may face delays in processing of the application if their **profile is considered risky based on data analysis and risk parameters** by the common portal. In such instances, the **GST registration processing may take up to 30 days from the date of submission of application**. Further, the section to track status of registration application is being updated on the GST portal thereby seeking to enable the applicants to view the status of the processing in the online tracking module.



KEY NOTIFICATIONS

DGFT Notification No. 70/2023 dated 8th March 2024

- The said notification seeks to **extend the benefits of the Remission of Duties and Taxes on Export Products (RoDTEP) scheme to the holders of Advance Authorization (AA) (who export their manufactured goods), as well as to Export oriented unit (EOU) and to units of Special Economic Zone**. The objective of the government is to boost exports by granting refund of non-recoverable embedded taxes and secure a competitive position in the foreign markets.
- For export of products manufactured by AA holders (except deemed exports), EOU and SEZ units, the eligible RoDTEP items, **rates and per unit value caps are notified in Appendix 4RE [for exports of products manufactured by Advance Authorisation holders (except Deemed Exports), EOU and SEZ units]**.

- It is pertinent to note that the benefit of this scheme shall be available to the exporter from **11 March 2024 till 30 September 2024**.

KEY JUDICIAL PRONOUNCEMENTS

Name of the case: KNOWLEDGE INFRASTRUCTURE SYSTEMS PVT. LTD. VERSUS UNION OF INDIA & ORS.

Judgement pronounced by: DELHI HIGH COURT [2024 (3) TMI 1129]

Synopsis of the judgement:

The captioned case law emphasizes **that the proper office cannot pass any unfavourable order merely on the grounds of inadequate or incomplete documentation and by citing that the replies are not clear or unsatisfactory.**

The GST department in the present case passed a non-speaking order forming a careless opinion that replies furnished by the petitioner were incomplete and not duly supported by sufficient documents.

The applicant in objection of the departmental position filed a writ petition before the Hon'ble Delhi High Court. It has been held by the Hon'ble Delhi High Court **that the reply furnished by the taxpayer is to be considered on merits and in case of insufficient documentation, the proper officer should necessitate the taxpayer to produce the additional documents/evidence as required for their verification.** The Hon'ble Delhi High Court directed the department to re-assess the matter and pass a fresh order after verifying the requisite documents additionally sought from the taxpayer and only after giving an opportunity of personal hearing.



Name of the case: MODERN FOOD ENTERPRISES PVT. LTD. VS. UNION OF INDIA

Judgement pronounced by: KERALA HIGH COURT [2024 (4) TMI 763]

Synopsis of the judgement:

The core issue revolved around the GST classification and the applicable tax rate for the company's products, Classic Malabar Parota and Whole Wheat Malabar Parota. The company contended that these products should be classified under Chapter Heading 1905 of the GST tariff, which typically includes food preparations made from cereals, flour, starch, or milk. This classification would subject the products to a lower GST rate of 5%, aligning with similar products such as Khakhra, plain chapati, or roti.

The tax authorities had previously classified these Parotas under Chapter Heading 2106, applying an 18% GST rate, arguing that these products did not fit the typical description of 'bread' as covered under Chapter Heading 1905 and were not ready-to-eat products, thus falling under the category of "food preparations not elsewhere specified or included."

Challenging the decision of the Advance Ruling Authority and its appellate body, Modern Food Enterprises approached the Kerala High Court. The Court analyzed the ingredients and preparation processes of the Parotas, comparing them with other products listed under Chapter Heading 1905. It concluded that the Parotas were similar in nature and composition to the products specified under this heading. Consequently, the Court ruled that the Parotas should indeed be classified under Chapter Heading 1905 and not 2106, thus making them eligible for a 5% GST rate. The Court also dismissed the company's claim for an exemption from GST under entry 97, as it found the exemption notifications to be item-specific and not applicable to the Parotas.

Name of the case: M/s GAYATRI ENTERPRISES

Judgement pronounced by: AUTHORITY FOR ADVANCE RULING, ANDHRA PRADESH [2024 (2) TMI 1055]

Synopsis of the judgement:

In the instant case, the matter to be decided was whether the applicant, a broker dealing in agricultural produce, was required to register for GST and charge GST on its services. Gayatri Enterprises acts as a broker in transactions involving agricultural produce like pulses, facilitating deals between wholesalers and millers/farmers and charging a brokerage fee.

The AAR was asked to determine if such brokerage activities, especially since they involved agricultural produce which is generally exempt from GST, required GST registration and if so, the applicable rate of GST. The applicant was already registered under GST and charged an 18% GST rate on brokerage fees but faced resistance from clients about the applicability of GST.

Upon examination, the AAR clarified that while raw agricultural produce is exempt from GST, processed agricultural products like dehusked or split pulses do not qualify as raw agricultural produce. Consequently, these processed items fall outside the exemption categories defined under the notification No. 11/2017-CT (Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and SGST Acts.

Further, the AAR ruled that the brokerage services provided by Gayatri Enterprises are taxable. This is because the definition of "commission agent" under GST encompasses any person who facilitates the supply or receipt of goods or services on behalf of another and earns a commission from such activities. This made the applicant's brokerage services liable for GST registration regardless of turnover limits, and subject to CGST and SGST at 9% each, totalling an 18% GST rate, as outlined under Notification No. 11/2017-Central Tax (Rate).

In conclusion, the AAR affirmed that Gayatri Enterprises must register for GST and correctly charge an 18% GST on the brokerage fees it collects, irrespective of the exemption status of the underlying agricultural products.

Name of the case: M/S. JUSPAY TECHNOLOGIES PVT. LTD.

Judgement pronounced by: AUTHORITY FOR ADVANCE RULINGS, KARNATAKA [2023 (9) TMI 1121]

Synopsis of the judgement:

In the captioned case, several issues were examined concerning the classification and GST liabilities of Juspay as an e-commerce operator under the CGST Act, 2017. Juspay operates the "Namma Yatri" app, a digital platform connecting auto-rickshaw drivers with passengers in Bengaluru. The primary questions were whether Juspay qualifies as an e-commerce operator, if the transport services facilitated through its platform constitute a supply by Juspay, and if Juspay is responsible for collecting and remitting GST on these services.

Juspay argued that their app merely facilitates connections between drivers and passengers without involving itself in the actual transactions or collection of payments. The app allows drivers to register and connect with passengers who use the app to find rides. Juspay charges a membership and subscription fee for using the app, but it does not monitor rides, set fares, or collect payments for rides. The transactions between the drivers and passengers occur independently of Juspay's involvement.

The AAR analyzed the definitions under the CGST Act, specifically Section 2(44) and Section 2(45), which define "electronic commerce" and "electronic commerce operator," respectively. They also considered Section 9(5) of the CGST Act, which stipulates that the government may specify categories of services for which the tax on intra-state supplies shall be paid by the e-commerce operator if such services are supplied through it.

It was determined that Juspay fits the definition of an electronic commerce operator since it manages a digital platform for the supply of services. However, the crucial point was whether the services were supplied "through" the e-commerce operator as contemplated in Section 9(5). The AAR concluded that for the services to be supplied through the operator, the operator must have control over the transaction from beginning to end, including the collection of payment and the provision of the service.

In Juspay's case, the company's involvement ended once the connection between driver and passenger was made. Juspay did not control the fare, monitor the ride, collect the payment, or address any operational aspects of the service. The actual supply of transportation services occurred independently of Juspay's app, thus failing to meet the conditions required for the services to be considered supplied through an e-commerce operator as per Section 9(5).

Consequently, the AAR ruled that although Juspay qualifies as an e-commerce operator, it is not liable for collecting and remitting GST on the transportation services provided through the Namma Yatri app. The GST liability rests with the individual service providers (the auto-rickshaw drivers) who are the actual suppliers of the services. Juspay's liability is limited to the GST on the membership and subscription fees charged for using the app.

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This Newsflash summarizes on the GST Updates for the Quarter during January 2024 to March 2024. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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23 May 2024

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