ACUPRO CONSULTING

WEEK 1, APRIL 2023

THE GST PULSE

ONE PLACE FOR ALL THE UPDATES



Recent Judgement and Rulings

RULE 89(4)(C) IS 'ULTRA-VIRES' AND HELD 'UNCONSTITUTIONAL TO THE PROVISIONS OF GST LAW

THE HON'BLE KARNATAKA HIGH COURT

M/s. Tonbo Imaging India Pvt. Ltd ("the Petitioner") exported various customized products under "zero-rated supply" as per section 16 of the IGST Act, 2017 during the period from May 2018 to March 2019.The Petitioner filed refund applications for the months of 2018-19. The Revenue Department ("the Respondent") issued deficiency memos on the ground of amended Rule 89(4)(c) of the CGST rules vide notification no. 16/2020 of CBIC which restricted the refund of exports made through LUT to a maximum of 1.5 times the value of like goods domestically supplied by the same or, similarly placed supplier. Thus, respondent has rejected the refund claim of the petitioner.

The Petitioner submitted the reply of deficiency memos that the amended rule would not be applicable for the period for which the refund claim was sought. The Petitioner would be governed by the unamended Rule 89(4)(c) CGST Rules and not by the amended Rule 89(4)(c) of the CGST rules. Being aggrieved by the rejection of claim of refund filed by the Petitioner, the Petitioner filed a writ petition before the Karnataka High Court.

The Hon'ble Karnataka High Court held that Rule 89(4)(c) of the CGST Rules is violative of Articles 14 and 19(1)(g) of the Constitution because this rule is restricting the amount of refund of unutilized ITC in case of export under LUT. The High Court directed the Respondent to accept the refund claims of the Petitioner and allowed the writ petition.



Recent Notifications

Notifications giving effect to proposals of the 49th GST Council Meeting, including notifications related to Amnesty Scheme, have been issued on 31.03.2023. A summary of the notifications dated 31.03.2023 is as follows:

- **Notification No. 02/2023 – Central Tax Dated 31.03.2023**

Late fees for filing GSTR 4 for the period from July 2017 to March 2019 has been waived off. The late fee will be restricted to a maximum of Rs. 500 (Rs. 250 for CGST and Rs. 250 for SGST) for the period from FY 2019-20 to FY 2021-22. Taxpayers with a central tax liability of NIL will not be charged any late fees for the mentioned periods. Benefits of this notification will be available if all pending returns will be filed from April 1, 2023, to June 2023.

- **Notification No. 03/2023 - Central Tax Dated 31.03.2023**

Registered persons whose registrations were cancelled due to non-filing of returns and who fails to apply for revocation of cancellation. They can apply for revocation of cancellation of their registrations upto 30.06.2023, after filing all the due returns and paying the required taxes, interest, penalty, and late fees. No further extension of time will be available for filing the application for revocation of cancellation of registration in such cases.

- **Notification No. 04/2023 & 05/2023 - Central Tax Dated 31.03.2023**

The combined reading of Notification No. 04/2023 & 05/2023 - Central Tax Dated 31.03.2023 concludes that biometric-based Aadhaar authentication and taking a photograph of the applicant, along with verification of the original copy of the documents to be uploaded with the application in FORM GST REG-01, must be done through one of the notified facilitation centers.



- **Notification No. 06/2023 – Central Tax dated 31.03.2023.**

Registered persons who have undergone assessment under Section 62 of the CGST Act on or before 28.02.2023, and have failed to furnish a valid return within 30 days from the date of service of the assessment order. Such persons are required to furnish the said return on or before 30.06.2023, along with the payment of interest and late fees.

- **Notification No. 07/2023 – Central Tax dated 31.03.2023.**

Late fees under section 47 has been revised for annual returns under section 44 for the financial year 2022-23 onwards based on the turnover of registered persons. For the convenience, we have presented this information in a table below:

Aggregate Annual T/O of Registered Persons	Late Fees
T/O Up to Rs. 5Cr	Rs. 50 per day Subject to maximum of 0.04% of T/O of relevant FY
T/O Above Rs. 5Cr but Up to Rs. 20Cr	Rs. 100 per day Subject to maximum of 0.04% of T/O relevant FY
T/O Above Rs. 20Cr	Rs. 200 per day Subject to maximum of 0.04% of T/O relevant FY

Further, Registered persons who have not filed their annual returns for the financial years 2017-18 to 2021-22, an amnesty scheme is now available. If they submit their returns from April 1st, 2023 to June 30th, 2023, the maximum late fee they will be charged is Rs 20,000.



- **Notification No. 08/2023 – Central Tax dated 31.03.2023.**

Individuals whose registration has been cancelled or surrendered and who have not filed the GSTR 10 within the specified deadline now have the opportunity to submit their final return between April 1st, 2023 and June 30th, 2023 and the maximum late fee for this late submission is Rs 1000 only.

- **Notification No. 09/2023 – Central Tax dated 31.03.2023.**

The CBIC has extended the time limit under section 73(10) of the CGST Act, 2017 for issuing orders under section 73(9) to recover tax not paid or short paid, or input tax credit that was wrongly availed or utilized for the financial years 2017-18, 2018-19, and 2019-20. The table below lists the extended due dates:

Period	Extended Time Limit
FY 17-18	Upto 31-12-2023
FY 18-19	Upto 31-03-2024
FY 19-20	Upto 30-06-2024



Thank You!

ALOK VASANT
PARTNER
TEL: + 91 9811008421
ALOK.VASANT@ACUPROCONSULTING.COM

BALWAN BANSAL
PARTNER
TEL: + 91 9871767277
BALWAN.BANSAL@ACUPROCONSULTING.COM

ANKIT JAIN
PARTNER
TEL: + 91 9811665549
ANKIT.JAIN@ACUPROCONSULTING.COM



NEWSLETTER CONTRIBUTORS
PANKAJ BANSAL
RONAK AGRAWAL
CHANCHAL KANSAL

FOR MORE INFO VISIT
WWW.ACUPROCONSULTING.COM

COMMUNICATION ADDRESSES:
DELHI/NCR

ACUPRO CONSULTING
2ND FLOOR, 108, UDYOG VIHAR,
PHASE I,
GURGAON - 122016
HARYANA, INDIA
PH: +91 124-4ACUPRO(228776)

HTTPS://WWW.LINKEDIN.COM/COMPANY/ACUPROCONSULTINGINDIA/