



VOLUME XII,
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CONNECTION

“Voting is the expression of our commitment to ourselves, one another, this country, and this world.”

– Sharon Salzberg



JUST TO REMIND YOU

- Nov 11 - Due date for filling GSTR1 Normal case for Oct 2024
- Nov 13 - Due date for filling GSTR1 IFF case for Oct 2024
- Nov 15 - Due date for the payment of ESIC & PF for Oct 2024.
- Nov 20 - Payment of GST & filing of return for Inward & Outward Supplies for Oct 2024 by Regular & Casual Suppliers
- Nov 22- Payment of GST & filing of return for Inward & Outward Supplies for Oct 2024 in IFF Case.
- Nov 30– Due date for filling 26QC for Oct 2024.
- Nov 30–Due Date for filing NFRA-2



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GUIDELINES FOR COMPOUNDING OF OFFENCES UNDER INCOME-TAX ACT, 1961

1. Section 279(2), read with section 2 (15A) and 2 (21) of the Income Tax Act, 1961 (Act) provides that any offence under Chapter XXII of the Act may, either before or after the institution of proceedings, be compounded by the Pr. CCIT/ CCIT/ Pr. DGIT/ DGIT. The Central Board of Direct Taxes ('CBDT') had earlier issued following guidelines for compounding of offences under section 279 (2) of the Act: i. Guidelines issued vide letter dated 16.05.2008, ii Guidelines issued vide letter dated 23.12.2014, iii. Guidelines issued vide letter dated 14.06.2019, and iv. Guidelines issued vide letter dated 16.09.2022. 2. The above Guidelines have been reviewed and in supersession thereof, and in exercise of powers conferred u/s 119 read with explanation to section 279 of the Act, following Guidelines are hereby issued. 3. Scope of the Guidelines to prosecutions under Income Tax Act, 1961 3.1 These Guidelines shall come into effect from the date of issuance. They shall apply mutatis mutandis to all applications which are either filed after the date of issuance of these guidelines or were already filed earlier but had not been disposed. For applications,

pending on the date of issuance of these Guidelines, if compounding charges have already been determined and intimated but not fully paid, the compounding charges shall be re-determined, provided they are lower as per these Guidelines. However, no refund or adjustment against other dues shall be made if the higher compounding charges, determined as per the previous Guidelines, have already been paid. 3.2 Applications may also be filed again, in case applications under earlier guidelines were rejected only on account of curable defects such as non-payment of outstanding tax, interest, penalty, or any other sum related to the offence, filing of application in incorrect proforma, mention of incorrect assessment year/financial year or section under which offence has been committed, non-payment or short payment of compounding charges, non-submission of undertaking regarding withdrawal of appeals, etc. Credit for the payment already made shall be given against the compounding charges to be paid under these Guidelines. Further, it is clarified that those applications rejected in the past on merits by the Competent Authority shall

not be reconsidered, under this provision. 4. Conditions for consideration of Compounding Application Offences may be considered for compounding if all the following conditions are satisfied: 4.1 Compounding Application: 4.1.1 An application for compounding is made to the Pr. CCIT/ CCIT/ Pr. DGIT/ DGIT, having jurisdiction over the case, for compounding of the offence(s) in the prescribed format (Annexure-1), in the form of an affidavit on a stamp paper of Rs.100/-. 4.1.2 The compounding application may be filed for offence(s) pertaining to one financial year (in case of taxpayers) or quarter (in case of tax deductors) or for multiple years/quarters. The Compounding Application, filed for multiple years/quarters, shall be called 'Consolidated Compounding Application'. Similarly, if there are more than one rejected application under the previous Guidelines, one Consolidated Compounding Application may be filed for all such previous applications. 4.1.3 The compounding application or 'Consolidated Compounding Application' may be filed suo-moto at any time after the offence(s) is committed, irrespective of whether it comes to the

notice of the Department or not. The Compounding Application or the Consolidated Compounding Application may also be filed after the launch of prosecution proceedings.

4.2 Compounding Application Fee

4.2.1 For Compounding Applications or the Consolidated Compounding Applications, filed on or after the date of issuance of these guidelines, irrespective of the year of offence, the applicant shall deposit non-refundable Compounding Application Fee as following: Single Compounding application – Rs. 25,000/- (per application). Consolidated Compounding application – Rs. 50,000/- (per such application).

4.2.2 The said fee is a non-refundable fee, but adjustable against applicable total compounding charges decided by the Competent Authority, if any.

4.2.3 The Compounding Application Fee, at above rates, shall also be payable in respect of applications which were filed before the date of issuance of these guidelines but have been rejected and that are proposed to be revived in terms of these guidelines.

4.2.4 The Compounding Application Fee shall not be payable in respect of applications pending as on date of issuance of the guidelines and filed in terms of earlier guidelines.

4.3 Payment of all taxes, interest & other sums relating to offence for which compounding sought:

4.3.1 All outstanding tax, interest (including interest u/s 220 of the Act), penalty and any other sum due, relating to the

offence(s) for all relevant year(s) and/or quarter(s) for which compounding has been sought shall be paid before making the Compounding Application or the Consolidated Compounding Application, as the case may be.

4.3.2 However, if on verification by the Department, any related demand is found outstanding or is considered payable, the same, on being intimated to the applicant, shall be paid (including interest u/s 220 of the Act) within 30 days of the intimation by the Department or such period (not exceeding three months) allowed by the Competent Authority. The compounding application or the consolidated compounding application, as the case may be, shall be considered valid only consequent to the payment of all the demand pertaining to the offence(s) for respective years/quarters.

4.4 Undertaking by the applicant: The applicant shall undertake to pay the Compounding charges, determined in accordance with these guidelines by the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned, within the stipulated timeframe.

4.5 Withdrawal of appeals: The person/applicant shall undertake to withdraw appeals filed by him, if any, related to the offence(s) sought to be compounded. In case such an appeal has mixed grounds, one or more of which may not be related to the offence(s) under consideration, an undertaking shall be given for withdrawal of such grounds as are related to the offence to be com-

pounded.

4.6 Consolidation of offences: Any application for compounding of offence u/s 276B/276BB of the Act by an applicant for any period for a particular TAN should cover all defaults constituting offence u/s 276B / 276BB in respect of that TAN for such period. For the purposes of considering the quantum of TDS defaults, the total default on account of non-payment of TDS/TCS for a quarter shall be considered by combining the defaults in all the statements filed by the TDS deductor, in respect of the relevant quarter.

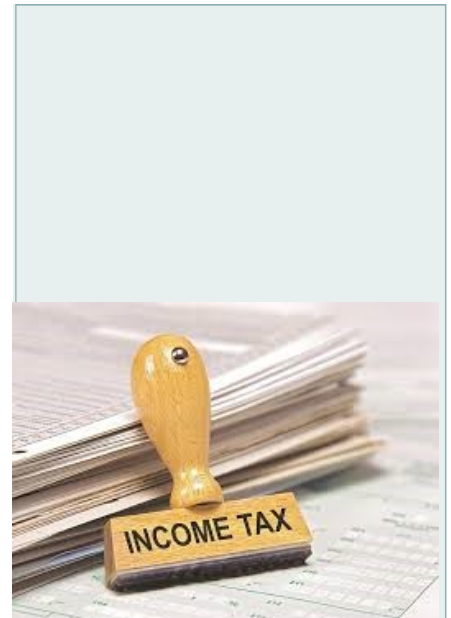
5. Revival of a defective application: Applications which do not fulfil any of the specified conditions (4.1 to 4.6 above) or are not acceptable due to curable defects such as Non-payment of outstanding tax, interest, penalty, or any other sum related to the offence; Application not filed in correct proforma; Applications filed for incorrect financial year or assessment year. or under incorrect section, etc.; shall be treated as 'defective' under these guidelines and shall not be proceeded with. However, such applications can be revived without additional payment of Compounding Application Fee, provided the defects are cured within a period of one month from the date of intimation of the defect(s). In case, the defect is not cured within time allowed, defective application will be returned back to the applicant. Any further application filed for the same purpose, will be considered as

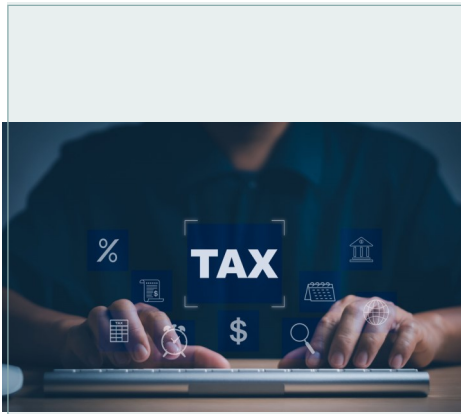


subsequent compounding application and charges will be applicable as per para 10 of these guidelines. 6. Offences compoundable with the approval of higher authority 6.1 The Competent Authority, in the following cases, may compound only with the approval of Chairman, CBDT. a. In case of an offence for which the applicant has been convicted with imprisonment for two years or more, with or without fine, by a court of law; b. In case of an offence which is related to another offence under any other law for which he has been convicted with imprisonment for two years or more, with or without fine, by a court of law; c. If the applicant, as per information available on the basis of an investigation conducted by any Central or State Agency, has been found to be involved, in any manner, in anti-national or terrorist activity. In such cases, the Competent Authority shall consult with relevant Agency and seek inputs regarding the said activity and its implications, for the purpose of deciding it as a deserving case and incorporate them while seeking approval; d. In the case of an applicant, being a person other than the main accused, where it is proved that the applicant facilitated tax evasion through mechanisms such as use of entities for laundering of money, generation of bogus invoices of sale/purchase without actual business, by providing accommodation entries or in any other manner, as pre-

scribed in section 277A of the Act; e. If the offence is directly related to an offence under the following Acts: i. the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015; or ii. Prohibition of Benami Property Transactions Act, 1988; (f) In case of an offence under section 275A and/or 275B of the Act. 7. Other terms of compounding: 7.1 Applications for compounding shall normally be accepted if the conditions mentioned in these guidelines are satisfied. 7.2 However, compounding is not a matter of right and applications may be rejected by the Competent Authority in exceptional cases, on recording in writing, reasons such as if the applicant is a habitual offender or the gravity of the offence considering the facts and circumstances of the offence, etc. 7.3 Prosecution instituted under Indian Penal Code (IPC) (or now Bhartiya Nyay Sanhita 2023), if any, cannot be compounded, under these Guidelines. In case the prosecution complaint filed under the provisions of the Act as well as under the Indian Penal Code (IPC) (or now Bhartiya Nyay Sanhita 2023), is based on the same facts and the offence (s) under the Act have been compounded, then the complaint relating to the offences under IPC (or BNS, 2023) shall be withdrawn by the Competent Authority, in terms of section 321 of Criminal Procedure Code, 1973, and/or section 360 of Bharatiya Nagarik Suraksha Sanhita,

2023. 8. Authority Competent to Compound an Offence: 8.1 The jurisdictional Pr. CCIT / CCIT / Pr. DGIT / DGIT is the Competent Authority for compounding of offences. 8.2 If a person has committed an offence u/s 276B / 276BB of the Act for non-payment of TDS/TCS in respect of both resident and non-resident payees/ collectees then the jurisdiction over such person normally lies with more than one jurisdictional charge. In such case, the Pr. CCIT/ CCIT/ Pr. DGIT/ DGIT in whose jurisdiction compounding application has been filed will be the Competent Authority. However, in case the applicant files applications in more than one jurisdictional charge, the Competent Authority will be the jurisdictional authority where the quantum of TDS default is higher. All other applications shall be transferred to such Competent Authority. Further, in case of any dispute in deciding Competent Authority, the Pr. CCIT having PAN jurisdiction will decide Competent Authority, within 30 days of receipt of such reference. 8.3 In case an applicant files Compounding application for offences committed u/s 276B/276BB of the Act, in respect of two or more TANs falling in two or more jurisdictions, the jurisdictional authority where the quantum of TDS default is higher shall be the Competent Authority. All other applications shall be transferred to such Competent Authority. Further, in case of any dispute in deciding





Competent Authority, the Pr. CCIT having PAN jurisdiction will decide Competent Authority, within 30 days of receipt of such reference. 9. Compounding Procedure 9.1 On receipt of the Compounding application, the Competent Authority shall obtain a report from the Assessing Officer/ Assistant or Deputy Director concerned who shall submit it promptly along with duly filled in check-list (Annexure-2), to the Competent Authority, through proper channel. 9.2 In cases where, the compounding application is not found to be acceptable, then the Competent Authority shall dispose of such application through a speaking order in the suggested format (Annexure-3 - Part-II). Such order may be passed within two months from the end of the month of receipt of the application as far as possible. 9.3 In cases where, the compounding application is found to be acceptable, then the Competent Authority shall intimate the applicant accordingly, along with the compounding charges payable and other pending liabilities, if any. Such intimation may be issued within two months from the end of the month of receipt of the application as far as possible. 9.4 The Competent Authority shall, while intimating the amount of compounding charges to the applicant, require him to pay the same within one month from the end of the month of receipt of such intimation. On written request of the applicant for further extension of time period for payment of com-

pounding charges, the Competent Authority, under exceptional circumstances, may extend this period up to six months. Extension beyond 6 months and upto 12 months shall not be permissible except with the prior approval in writing of the Pr. Chief Commissioner of Income Tax of the Region concerned. Extension beyond 12 months and upto 24 months from the end of month shall not be permissible except with the prior approval of Chairman, CBDT or a Member, CBDT authorized by the Chairman, CBDT on a proposal of the Competent Authority concerned. No extension shall be allowed after 24 months from the end of the month of receipt of such intimation of compounding charges. 9.5 Where compounding charge is not paid within the time allowed/extended, the application will be rejected and prosecution proceedings shall be initiated, if not already done so. 9.6 The complainant shall serve a copy of the prosecution complaint to each accused within 15 days of filing complaint to allow prompt filing of compounding application. 9.7 The order of acceptance/rejection of application of compounding shall be brought to the notice of the Court, where the said prosecution proceedings are pending before the Court, immediately through prosecution counsel in all cases where prosecution proceedings have been instituted. 9.8 In case proceedings to impose penalty related to the offence sought to be compounded are pending at

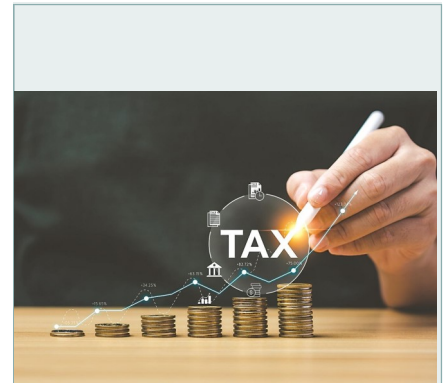
the time of filing of the compounding application, such proceedings should be concluded expeditiously and the demand related to penalty, if any, recovered before issuing the compounding order. 9.9 For the purpose of payment of compounding charges, the following path on e-Filing website of the department is relevant: "Login on e-Filing portal → e-Pay Tax → New Payment → Income Tax → Minor Head → Other Receipts (500) → compounding charges". 9.10 Where the payment of compounding charges is made within time allowed/extended, the Competent Authority shall pass the compounding order in the suggested format (Annexure-3 - Part-I) within one month from the end of the month of payment of total compounding charges. 9.11 Taxpayers, particularly NRIs, avoid opting for compounding due to a misconception that it constitutes an admission of offences, which could affect their reporting obligations at various statutory and international forums. To address this misconception and encourage taxpayers to seek compounding, it is directed that the Competent Authority shall include the following paragraph in the compounding order issued under section 279(2) of the Act: "This compounding order is intended to resolve the offence under section 279(2) of the Act and should not be construed as an admission of the offence(s) by the applicant." 9.12 The timelines for processing the compounding applica-



tions by the Competent Authority prescribed in these Guidelines, are administrative and do not prescribe a limitation period for disposal of the compounding application. 9.13 All the functions relating to processing of any compounding application is recommended to be undertaken through in ITBA / TRACES to the extent possible. 10. Compounding Charges 10.1 For the purpose of computation of the compounding charges, the word "tax" means-tax including surcharge and any cess, by whatever name called, as applicable. However, interest shall not be included in 'tax' to be considered for computation of Compounding Charge. 10.2 The compounding charges for the 'first' compounding application or consolidated compounding application by a person shall be computed, for each offence disclosed in the application, as given in the Annexure-4 to these Guidelines. 10.3 Further, any application filed subsequent to the first application, shall be counted as second, third and fourth compounding application or consolidated compounding application and so on. 10.4 Furthermore, if a person applied for compounding of an offence(s), the type of which was applied for earlier, then compounding charges for subsequent offence(s) shall be 1.2 times, 1.4 times, 1.6 times, and so on of the compounding charges given in the Annexure-4 to these Guidelines, for the second, third, fourth, etc. time of such offence. 10.5 It is

also clarified that if a subsequent application(s) includes any offence(s), the type of which had not been disclosed in any of the earlier applications, the compounding charges for the said offence(s) shall be computed only as per the charges given in the Annexure-4 to these Guidelines. 10.6 Where the compounding application(s) had been filed in accordance with prior guidelines and are either pending or were rejected or have been compounded, all such applications, filed prior to issuance of these guidelines, shall together be considered as 'first' compounding application. 10.7 If the application is made beyond 12 months from the end of the month in which the prosecution complaint is filed, the compounding charges shall be increased by 50% of the amount calculated as per paras 10.2 to 10.5 above. 11. Co-accused and Abettor- Section 278B (Offences by companies) and Section 278C (Offences by Hindu undivided families) 11.1 Where an offence under this Act has been committed by a Company or HUF as defined in section 278B or 278C of the Act, an application for compounding may be filed separately or jointly by the main accused i.e., Company, or HUF and/or any of the person(s) deemed to be guilty of the offence under section 278B or 278C of the Act, to be referred as "Co-accused" for the purpose of compounding under these guidelines. The Competent Authority may decide the application accord-

ingly subject to the payment of compounding charges as per these guidelines. 11.2 It is again clarified that in cases of offences by a company or HUF, the main accused or co-accused may apply separately or jointly. On payment of compounding charges for the offence as determined under these guidelines, by any one of them separately or jointly, the Competent Authority shall compound the offences of the main accused as well as all the co-accused, vide an order u/s 279(2) of the Act. 11.3 For the purpose of depositing compounding charges, co-accused under Section 278B or 278C of the Act may deposit the charges under his PAN for the relevant financial year of the offence for which compounding is sought. 11.4 In case liability of a company for an offence committed prior to the commencement of the corporate insolvency resolution process ceases due to the provisions of section 32A of the Insolvency Bankruptcy Code (IBC), it is clarified that prosecution proceedings against the co-accused can still continue. In such a case, the compounding application and payment of compounding charges can be made by the co-accused and/or the main accused company. 12. It is requested to circulate the above revised Guidelines among all the officers for compliance and give wide publicity to the same.



INCOME TAX NINTH AMENDMENT RULES 2024 | CBDT NOTIFICATION 114



In exercise of the powers conferred by section 295 read with section 206C of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:- 1. (1) These rules may be called the Income-tax (Ninth Amendment) Rules, 2024. (2) They shall come into force on the date of their publication in the Official Gazette. 2. In the Income-tax Rules, 1962,--

ADVERTISEMENT Powered by (a) in rule 31AA, in sub-rule (4),-- (i) in clause (vi),-- (A) in sub-clause (b), for the words "fourth proviso", the words "fifth proviso" shall be substituted; (B) in sub-clause (c), for the words "fifth proviso", the words "sixth proviso" shall be substituted; (ii) in clause (vii), for the word, figures and letter "section 206C." occurring at the end, the word, figures and letter "section 206C;" shall be substituted; (iii) after clause (vii), the following clause shall be inserted,

namely:- "(viii) furnish particulars of amount received or debited on which tax was not collected or tax was collected at a lower rate in view of any notification issued under sub-section (12) of section 206C."; (b) in rule 37-I,-- (i) in sub-rule (1), after the words "has been collected", the brackets and words "(hereinafter referred to as the collectee)" shall be inserted; (ii) after sub-rule (1), the following sub-rule shall be inserted, namely: -- "(1A) (a) Where under any provisions of the Act, the income of the collectee is assessable in the hands of any person other than the collectee, the credit for the tax collected at source, shall be given to such other person and not to the collectee: Provided that the collectee shall file a declaration with the collector and the collector shall report the tax collection in the name of the other person in the information relating to collection of tax referred to in sub-rule (1). (b) The decla-

ration filed by the collectee under the proviso to clause (a) shall contain the name, address, permanent account number of the person to whom credit for the tax collectible at source is to be given, amount of payment in relation to which credit is to be given and reasons for giving credit to such person. (c) The collector shall issue the certificate for collection of tax at source under sub-section (3) of section 206C of the Act, in the name of the person in whose name credit is shown in the information relating to collection of tax referred to in sub-rule (1) and shall keep the declaration in his safe custody."; (c) in Form No. 27EQ, in the Annexure, after Verification, in the Notes, after Note 8, the following Note shall be inserted, namely:- '8A. Write "J" if no collection or lower collection is in view of notification issued under sub-section (12) of section 206C.'

"We cannot solve problems with the kind of thinking we employed when we came up with them." —Albert Einstein

NOTIFICATION NO. 115/2024– NO TCS ON RBI PAYMENTS

In exercise of the powers conferred by sub-section (12) of section 206C of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies

that no collection of tax shall be made under sub-section (1F) of section 206C of the said Act on any payment received from the Reserve Bank of India. 2.

This notification shall come into force on the date of its publication in the Official Gazette.

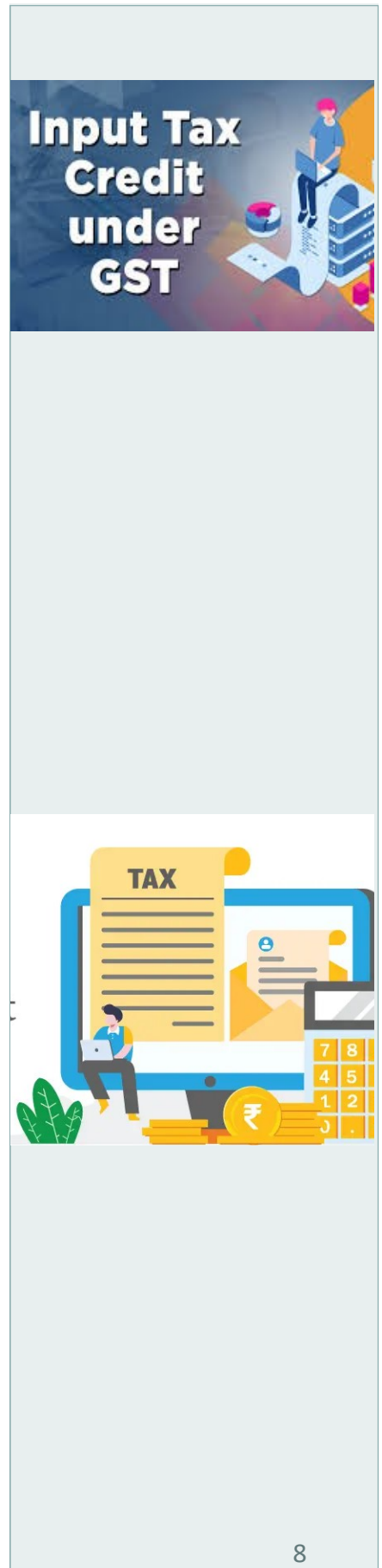


CLARIFICATION ON INPUT TAX CREDIT: CIRCULAR NO. 237/31/2024-GST

Reference is invited to sub-section (5) and sub-section (6) of section 16 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") inserted in section 16 of the CGST Act, with effect from the 1st day of July, 2017, vide section 118 of the Finance (No. 2) Act, 2024, whereby the time limit to avail input tax credit under provisions of sub-section (4) of section 16 of CGST Act has been retrospectively extended in certain specified cases. 1.2 Sub-section (4), sub-section (5) and sub-section (6) of section 16 of the CGST Act are reproduced below for ready reference: "(4)A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18,

the details of which have been uploaded by the supplier under sub section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019. (5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021. (6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,-- (7) filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or fur-

nishing of the relevant annual return, whichever is earlier; or (8) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later." 1.3 Further, it has been provided in section 150 of the Finance (No.2) Act, 2024 (reproduced below), that no refund of any tax paid or the input tax credit reversed shall be granted on account of the said retrospective insertion of sub-section (5) and sub-section (6) of section 16 of the CGST Act. "150. No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 118 been in force at all material times." 1.4 Besides, vide Notification No. 22/2024 - Central tax dated 08.10.2024, a special procedure for rectification of orders has been notified under section 148 of the CGST Act, to be followed by the class of taxable persons, against whom orders under section 73 or section 74 or section 107 or section 108 of the CGST Act have been issued confirming demand for wrong availment of input tax credit on account of contraven-



INPUT TAX CREDIT



tion of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed. 1.5 Representations have been received from trade and industry requesting for clarification in respect of various issues pertaining to availment of benefit of the said amendments in section 16 of CGST Act to the taxpayers against whom demands have been issued alleging wrong availment of input tax credit in contravention of provisions of sub-section (4) of section 16 of CGST Act, who are now entitled to avail the said input tax credit as per the retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. 2. 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 CGST Act, hereby clarifies the issues as below. 3. The following action may be taken by the tax authorities and/ or the taxpayers in various scenarios for availment of benefit on account of retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act: 3.1 Where no demand notice/ statement has been issued under section 73 or section 74 of the CGST Act: In cases, where any investiga-

tion/proceedings in respect of wrong availment of input tax credit alleging contravention of provisions of sub-section (4) of section 16 of the CGST Act has been initiated, but no demand notice/ statement under section 73 or section 74 of the said Act has been issued, and taxpayers are now entitled to avail the said input tax credit under the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, the proper office shall take cognizance of the sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively with effect from 01.07.2017 and take further appropriate action. This also includes the cases where an intimation in FORM DRC-01A has been issued under rule 142(1A) of the CGST Rules for denial of input tax credit on account of contravention of sub-section (4) of section 16 of the said Act, but no demand notice/ statement under section 73 or section 74 of the said Act has been issued. 3.2 Where demand notice/ statement under section 73 or section 74 of CGST Act has been issued but no order under section 73 or section 74 of CGST Act has been issued by the Adjudicating Authority: In such cases, the Adjudicating Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively with effect from 01.07.2017, and pass appropriate order under section 73 or section 74 of the CGST Act. 3.3 Where

order under section 73 or section 74 of the CGST Act has been issued and appeal has been filed under section 107 of the CGST Act with the Appellate Authority but no order under section 107 of the CGST Act has been issued by the Appellate Authority: In such cases, the Appellate Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively with effect from 01.07.2017, and pass appropriate order under section 107 of the CGST Act. 3.4 Where order under section 73 or section 74 of the CGST Act has been issued and Revisional Authority has initiated proceedings under section 108 of the CGST Act, but no order under section 108 of the CGST Act has been issued by the Revisional Authority: In such cases, the Revisional Authority shall take cognizance of sub-section (5) or sub-section (6) of section 16 of the CGST Act, inserted retrospectively with effect from 01.07.2017, and pass appropriate order under section 108 of the CGST Act. 3.5 Where order under section 73 or section 74 of the CGST Act has been issued but no appeal against the said order has been filed with the Appellate Authority, or where the order under section 107 or section 108 of the CGST Act has been issued by the Appellate Authority or the Revisional Authority but no appeal against the said order has been filed with the Appellate Tribunal: In such cases, where any



order under section 73 or section 74 or section 107 or section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed, the concerned taxpayer may apply for rectification of such order under the special procedure under section 148 of the CGST Act notified vide Notification No. 22/2024 – Central tax dated 08.10.2024, within a period of six months from the date of issuance of the said notification.

3.5.1 The taxpayers can file an application for rectification electronically, after login to www.gst.gov.in, using their credentials, by navigating as below in various cases:

a. In case where an application for rectification of an order issued under section 73 or section 74 of the CGST Act is to be filed: i. Click Dashboard > Services > User Services > My Applications. ii. Select “Application for rectification of order” in the Application Type Then, click the NEW APPLICATION button.

b. In case where an application for rectification of an order issued under section 107 of the CGST Act is to be filed: i. Click Dashboard > Services > User Services > View Additional Notices/Orders ii. Additional Notices and Orders page is displayed.

played. Click the View hyperlink to go to the Case Details screen of the issued Notice/Order. iii. Case Details page is displayed. The APPLICATIONS tab is selected by default. Select the ORDERS tab and click the “Initiate Rectification” link. c. In case where an application for rectification of an order issued under section 108 of the CGST Act is to be filed: i. Click Dashboard > Services > User Services > View Additional Notices/Orders ii. Additional Notices and Orders page is displayed. Click the View hyperlink to go to the Case Details screen of the issued Notice/Order. iii. Case Details page is displayed. The NOTICES tab is selected by default. To submit Rectification Request against the Revision Order issued to you by the Revisional Authority, select the ORDERS tab and click the “Initiate Rectification” link. 3.5.2 While filing such application for rectification of order, the taxpayer shall upload along with the application for rectification of order, the information in the proforma in Annexure A of the said notification, containing inter-alia the details of the demand confirmed in the said order of the input tax credit wrongly availed on account of contravention of sub-section (4) of section 16 of the CGST Act, which is now eligible as per sub-section (5) and/or sub-section (6) of section 16 of the CGST Act. 3.5.3 Such application for rectification shall be dealt by the proper officer who had passed the order

for which the said rectification application has been filed. The said officer shall take a decision on the said application for rectification and issue the order, as far as possible, within a period of three months from the date of such application. Besides, in case where any rectification is being made by the proper officer in the order for which the rectification application has been filed, he shall also upload a summary of the rectified order electronically in FORM DRC-08 in cases where rectification of an order issued under section 73 or section 74 of the CGST Act is being made, and in FORM GST APL-04, in cases where rectification of an order issued under section 107 or section 108 of the said Act is being made. While taking a decision on such application for rectification filed under the said special procedure, the proper officer shall also consider other grounds, if any, for denial of input tax credit, other than contravention of sub-section (4) of section 16 of the CGST Act, invoked in the concerned notice issued under section 73 or section 74, as applicable, in respect of the said amount of input tax credit. 3.5.4 Where the rectification adversely affects the said person, the principles of natural justice shall be followed by the said proper officer. 3.5.5 Further, it is to be noted that in cases where any rectification has been made by the proper officer in the order for which the rectification application has been filed, an appeal





against such rectified order can be filed under the provisions of section 107 or section 112 of the CGST Act, as the case may be, within the time limit specified therein. 4. It is pertinent to note that in terms of section 150 of the Finance (No. 2) Act, 2024, no refund of tax already paid or input tax credit already reversed would be available, where such tax has been paid or input tax credit has been reversed on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. 5. It is to be noted that the rectification application of an order issued under section 73 or section 74 or section 107 or section 108 of the CGST Act, can be filed under the special procedure notified vide notification No. 22/2024 – Central tax dated 08.10.2024, within a period of six months from the date of issuance of the said notification, only in cases where the issue or

one of the issues on which the demand has been confirmed in the said order, pertains to wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act. In cases where no such issue is involved and a taxpayer requires to file an application of rectification of an order, such rectification application can be filed by the taxpayers only under the provisions of section 161 of the CGST Act, within the time limit specified therein. In case a taxpayer has filed an application for rectification of an order under the special procedure notified vide notification No. 22/2024 – Central tax dated 08.10.2024, but where it is found that the issues in the said order do not involve any issue of wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act,

and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, such an application would be summarily rejected by the proper officer with a remark that, “The rectification application is rejected as it is found that the same is not covered under the notification No. 22/2024 – Central tax dated 08.10.2024, as no such issue is involved in the said order pertaining to wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, and where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act”. 6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. 7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.



GST RETURN FILING DEADLINE: THREE-YEAR LIMITATION – GSTN ADVISORY

As per the Finance Act, 2023 (8 of 2023), dt. 31-03-2023, implemented w.e.f 01-10-2023 vide Notification No. 28/2023 – Central Tax dated 31st July, 2023, the taxpayers shall not be allowed file their GST returns after the expiry of a period of three years from the due date of

furnishing the said return under Section 37 (Outward Supply), Section 39 (payment of liability), Section 44 (Annual Return) and Section 52 (Tax Collected at Source). These Sections cover GSTR-1, GSTR 3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR 7, GSTR 8 and GSTR 9. The

said changes are going to be implemented in the GST portal from early next year (2025). Hence, the taxpayers are advised to reconcile their records and file their GST Returns as soon as possible if not filed till now. ADVERTISEMENT Powered by 00:00 / 10:10

CBIC NOTIFIES LATE FEES WAIVER FOR GSTR-7 FILED LATE SINCE JUNE 2021

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), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), Central Board of Indirect Taxes and Customs published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) vide number G.S.R. 366(E), dated the 1 June, 2021 (No.22/2021-Central Tax), except as respects things done or omitted to be done before such supersession,

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 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: Provided further that the total amount of late fee payable under section 47 of the said Act by the registered person, who fails to furnish the return in FORM GSTR-7 for a month by the due date, where the total amount of central tax deducted at source in the said month is nil, shall stand waived. 2. This notification shall come into force on the 1st day of November, 2024.



GST RETURN FILING DEADLINE: THREE-YEAR LIMITATION – GSTN ADVISORY

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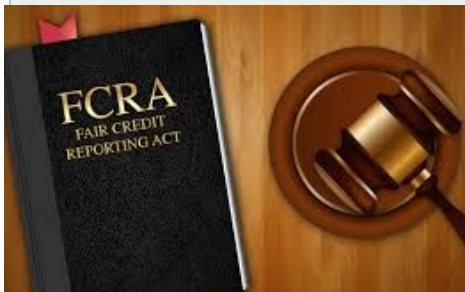


NOTICE ON FILING CHANGES IN FORM-6E FOR ASSOCIATIONS ON FCRA PORTAL

This Ministry has received representations regarding difficulties faced by association in filing another FC-6E application to intimate change in respect of office bearers or members or key functionaries when their

previous application is already pending. ADVERTISEMENT Powered by 2. As per Rule 17A of the Foreign Contribution (Regulation) Rules, 2011 (FCRR 2011), an association which has been grant-

ed a certificate of registration or prior permission under the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) shall intimate through the portal, besides other changes, any change in office bearers or mem-



bers or key functionaries mentioned in the application for grant of registration or renewal of registration or prior permission, in Form FC-6E within 45 days of change. 3. The matter has been examined and it has been decided that associations can now submit another application in Form

FC-6E, even if, an application in Form FC-6E for change in office bearers or key functionaries or members of the same association is pending. Once association initiates filing another FC-6E application, the details/requests from previous FC-6E application shall be auto filled in the

new application. Thereafter, upon submission of a new application, association's previous application will be automatically closed with a remark "disposed as closed". 4. This issues with the approval of the Competent Authority.

IBBI SUSPENDS INSOLVENCY PROFESSIONAL FOR NEGLIGENCE DURING CIRP

1. Introduction and Context

This document outlines the proceedings and final order of the Insolvency and Bankruptcy Board of India (IBBI) concerning the Show Cause Notice (SCN) issued to Mr. Rattan Chaudhry, an Insolvency Professional (IP). The investigation stemmed from his conduct during his tenure as the Interim Resolution Professional (IRP) for M/s. Classic Bottle Caps Pvt. Ltd., which underwent a Corporate Insolvency Resolution Process (CIRP) initiated by the National Company Law Tribunal (NCLT), New Delhi.

2. Background of the Case

Initiation of CIRP: On 13.02.2020, the Hon'ble NCLT, New Delhi, admitted M/s. Classic Bottle Caps Pvt. Ltd. into CIRP, appointing Mr. Chaudhry as the IRP.

Key Issue: Observations from the NCLT indicated Mr. Chaudhry's failure to take effective control and custody of the corporate debtor's (CD) assets. This oversight allowed the suspended board to continue

operations, resulting in significant liabilities without associated revenue flow.

3. Detailed Allegations and Observations

Primary Allegation: Failure to effectively manage and secure the assets of the CD, resulting in negligence that contravened multiple provisions of the Insolvency and Bankruptcy Code and associated regulations.

NCLT Findings:

The IRP did not assert adequate control over the CD's operations.

Operations continued at the CD's plant under the promoters' influence, leading to accrued expenses such as GST and electricity charges totaling substantial amounts. These liabilities were incurred without any corresponding credit to the CD's accounts.

Regulatory Context:

Section 18(d) and (f) of the Code: Obligates the IRP to monitor assets and take custody of all properties over which the CD has own-

ership rights.

Section 208(2)(a) and (e): Mandates that an IP must adhere to a code of conduct and not exhibit negligence.

Code of Conduct Clauses: Highlight the IRP's duty to act diligently and avoid misconduct.

4. Investigation Process and IP's Defense

Investigative Steps:

A formal investigation was conducted by the IBBI under the Inspection and Investigation Regulations, 2017.

Mr. Chaudhry was given an opportunity to respond and participated in a personal hearing on 08.10.2024.

Defense Submissions:

COVID-19 Lockdown: Mr. Chaudhry cited the nationwide lockdown starting on 25.03.2020 as a significant hindrance, arguing that restrictions limited his ability to manage the CD's operations and secure assets.

Security Concerns: Efforts



to replace the existing security setup were not approved by the Committee of Creditors (CoC), complicating asset control.

Principle of Natural Justice: Claimed that the NCLT's adverse observations were made without affording him a chance to be heard.

Committee's Analysis:

Timeline Scrutiny: Mr. Chaudhry received the appointment order on 28.02.2020 and visited the premises before the lockdown on 29.02.2020, 04.03.2020, and 19.03.2020. The committee determined that he had sufficient time to secure asset control prior to the lockdown.

Failure to Act: The committee found that despite having opportunities, Mr. Chaudhry did not exercise adequate oversight or take control measures during the initial month.

COVID-19 as a Factor: While the lockdown was acknowledged, the defense was deemed insufficient due to the lack of proactive measures taken before-

hand.

5. Findings and Conclusions

Findings:

The DC concluded that Mr. Chaudhry's failure to manage the CD's assets and operations constituted gross negligence.

The explanation that COVID-19 restrictions prevented necessary actions was rejected as the IP had ample time before the lockdown to fulfill his duties.

Non-cooperation or inaction led to liabilities without credit, which harmed the CD and its stakeholders.

Impact Assessment:

The continuation of operations under the ex-management's control resulted in misuse of the CD's resources.

The CD incurred financial losses due to accrued operational expenses without any revenue benefits.

6. Order and Penalties

Penalty Imposed:

Suspension: Mr. Chaudhry's authorization

for assignment was suspended for two years, under Section 220 of the Code and relevant regulations.

Effective Date: The suspension order takes effect 30 days from issuance.

Communication:

A copy has been sent to the Indian Institute of Insolvency Professionals of ICSI.

The CoC or Stakeholders Consultation Committee (SCC) of CDs where Mr. Chaudhry is currently involved must decide on his continued engagement.

Notification has been provided to the Registrar of the NCLT, New Delhi.

7. Conclusion and Implications

This order underscores the IBBI's emphasis on diligence and accountability within the insolvency profession. It serves as a reminder that IPs must uphold the highest standards, ensuring the protection of stakeholder interests and adherence to procedural mandates.



PUNE COURT GRANTS BAIL IN GST EVASION CASE OF ₹144 CRORE

In the case of Dinesh Kumar vs Directorate General of GST Intelligence (4596/2024), the applicant, Dinesh Kumar, was arrested by the Directorate General of GST Intelligence, Pune Zonal Unit, for offenses under Section 132(1)(b), 132(1)(c), 132(1)(d), 132(2), and Section

132(5) of the Central Goods and Services Tax Act, 2017. Bail application was first filed before the Hon'ble Chief Judicial Magistrate, Pune, which was rejected on 25.07.2024. Subsequently, a second bail application was moved before the Hon'ble Court of

District Judge and Additional Sessions Judge, Pune. In the application, it was argued that the necessary investigation had been completed, and the applicant's statement had already been recorded. Further, it was argued that the maximum punishment for



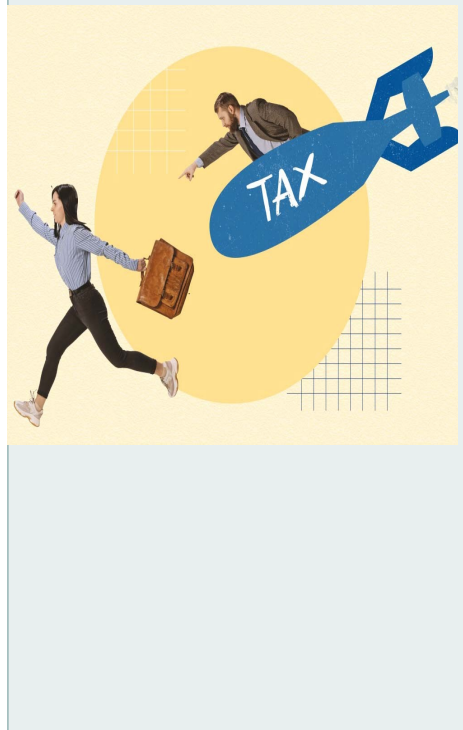
the alleged offenses is imprisonment up to 5 years, and as such, the continued detention of the applicant was unnecessary. Reliance was also placed on the judgment of the Hon'ble Supreme Court in *Ashutosh Garg vs Union of India*, asserting that the evidence, being in electronic form, could not be tampered with, and thus, the applicant was entitled to be granted bail. Taking into account the arguments and the case laws presented, the Hon'ble Additional Sessions Judge, Pune, passed an order on 10.10.2024, granting bail to Dinesh Kumar. The applicant was directed to execute a Personal Recognizance (P.R.) bond of Rs. 1,00,000/- (One Lakh Rupees) along with one or two solvent sureties in the same amount. FULL TEXT OF THE ORDER

1. The applicant Dinesh Kumar is seeking regular bail on account of his arrest in Case No. DGG/INV/GST/1109/2024 - GrA - O/o ADG - DGGI - ZU - PUNE, Directorate General of GST Intelligence, Pune Zonal Unit, Bundgarden, Pune for the offenses punishable under Section 132(1)(b), 132 (1) (c), 132(1)(1), 132(2) read with Section 132(5) of Central Goods and Services Act, 2017 (For short 'CGST Act').

ADVERTISEMENT Powered by 2. The brief facts, which led to the filing of the proceeding can be summarized, as under - That applicant Dinesh Kumar colluded with his brother Krushna Kumar to create a web of fake firms by forging statutory documents such as Aadhar

card, PAN card to be used to obtain multiple GSTIN registrations with an intent to fraudulently avail and pass on the ITC to fake firms and further to defraud the Government exchequer of its rightful revenue of Rs. 144.59 Cr. and derived benefit from the proceeds of the crime. Accordingly, he has committed an offence under Section 132(1)(b), 132 (1) (c), 132(1) (1), 132(2) read with Section 132(5) of 'CGST Act', receiving or issuing invoices without actual supply of goods. Accordingly, complaint was filed by the officers of Directorate General of GST Intelligence, Pune. 3. The applicant has moved the present bail application mainly on the ground of his innocence and total non-involvement in the commission of the alleged offences. It is contended that the present applicant Dinesh Kumar was arrested on 10/05/2024 at Jaipur, Rajasthan by senior Intelligence Officer (CGST), Pune. Since 12/05/2024, he is in judicial custody. The investigation in the matter is complete and a complaint has already been filed before the competent court. There is no reason for extension of his judicial custody as the present case is totally based upon documentary evidence. The maximum punishment provided for the offence is 5 years and therefore he deserves to be released on bail. He is a student aspiring for government competitive examination in Rajasthan and at the same time dealing with sale of mobile accessories. His family

members are dependent upon him for their livelihood. The entire material in the present matter is in the form of electronic or documentary evidence, which is already in the custody of the Investigating agency and as such there is no scope for him for tampering. In the event of his release on bail, he will neither abscond nor indulge into any criminal activity. He is ready to abide by the terms & conditions imposed by this court while release him on bail. On these grounds, he has prayed for his release on bail by allowing his application. 4. The application was resisted by the respondent / complainant by filing reply dated 13/08/2024. It is alleged that applicant has caused availment of total inadmissible ITC worth Rs. 92.74 Cr. through M/s. R. K. Enterprises, M/s S. K. Enterprises, M/s Shree Mahalaxmi Impex and M/s Mahaveer Enterprises without having any inward supply. Thus, he has committed the offences levelled in the complaint. He has caused passing on of inadmissible ITC worth Rs. 78.89 Cr. by above mentioned firms to multiple firms by issuance of invoices or bills without actual supply of goods leading to wrongful availment and utilization of ITC. He has created fictitious business entities by using forged / fake documents such as PAN and Aadhar Card to have GST registrations. The offences levelled against applicant are non-bailable in nature. Though complaint is filed, the further investigation is still in pro-



gress. Therefore, if he is released on bail, he may either abscond or tamper with the evidence. On these grounds, rejection of the application has been prayed for. 5. Perused the e-application, e-reply as well as the case laws relied upon by the applicant as well as respondent / complainant. Extensively heard Ld. Adv. Shri. Sachin Kumar as well as Shri. L. S. Oswal for the applicant and Ld. Spl. P. P. Shri. Randeep Sharma for the respondent/complainant. The submissions of both the sides are nothing but, more or less, replica of the contents of the application and reply. Both the Ld. advocates have filed written arguments and have also relied upon several case laws. The relevance of the case laws is being discussed at the appropriate place in the later part of this order. 6. I have carefully gone through the submissions and record, including the written arguments as well as case laws that have been relied upon by the both the sides. The allegation against present applicant is that he is involved in issuing fake invoices to other business entities, without supply of any goods and thereby has violated the provisions of CGST Act and integrated Goods and services Act, 2017. It is a matter of record that on such allegations, the applicant came to be arrested on 10/05/2024 and the complaint has already been filed before the Ld. Magistrate. That means, for almost 5 months period the applicant is behind the

bars. The maximum punishment provided for the offence is upto 5 years. It is also a matter of record that the day on which he was produced before the Chief Judicial Magistrate, his judicial custody was sought and the Ld. C.J.M. was pleased to grant the same. This aspect assumes importance to take a view favourable to applicant for grant of bail. 7. After considering the total allegations, it emerges that he is alleged to have operated bogus firms to avail and pass fake ITC. He is not shown as the owner of any bogus company / business entity. The piece of incriminating material which has been relied upon by the complainant is the statement of the present applicant recorded on 08/05/2024. The copy of the statement does not demonstrate that he has personally derived any financial benefit. Such statement is in the form of clue to the Investigation Authority to proceed further to unearth the alleged crime. Apart from this, there is no clear disclosure on record on the basis of reliable material showing the actual / exact pecuniary advantage / benefits derived by the present applicant, in the alleged transactions. That apart, the present case is totally based upon the documentary evidence which are completely in the custody of the competent authority and the nature of such evidence being in the electronic form and on the GST portal, there is no scope at all for the applicant to tamper with the same. The

maximum punishment provided for the offence is upto 5 years. Since last five months the applicant is in the judicial custody and in the teeth of above circumstances, extension of his judicial custody till the conclusion of trial, which may take substantial time, may amount to pre-trial conviction. He has a fixed place of residence and therefore not likely to abscond. 8. In this respect, Ld. advocate for applicant has rightly placed his reliance on the case laws in the cases of (a) Rahul vs. Director General of Goods and Services Tax Intelligence, Nagpur reported in 2024 (2) Mah. L. J. Cri. 491 wherein Hon'ble Bombay High Court (Nagpur Bench) has observed as under - 23. In the light of the above said observations, when facts of the present case are taken into consideration, it reveals that the applicant was arrested. Necessary investigation is carried out and the statement of the applicant is recorded. The maximum punishment provided is imprisonment upto five years. The facts of the case show that the dispute is regarding the tax evasion and the applicant has already paid Rs. 81.00 lacs towards the said tax amount. The offence is under the CGST Act, 2017 except with the limited exceptions are compoundable. 24. In the light of the above facts, detention of the applicant in jail is not required. The applicant is not involved in a heinous crime like murder or terrorism. The basic rule is, 'bail is rule and jail is exception'. The allegations of serious





financial impropriety are levelled against the applicant. 25. In this view of the matter, further incarceration of the applicant is not required. Accordingly, I proceed to pass following order - ORDER (1) The criminal application is allowed. (2)..... (3) (4) (5) The application stands disposed of Sd/ - (b) Ashutosh Garg Vs. Union of India in Petitions for Special Leave to Appeal (Cri) No(s) 8740/2024 decided on 26/07/2024 by Hon'ble Supreme Court of India, wherein it is observed that bearing in mind that the offence carries a maximum punishment of five years of imprisonment and the period of custody already undergone, we do not consider it appropriate to keep the petitioner languishing in jail any further. The petitioner shall accordingly be released on bail, subject to such terms and conditions as may be imposed by the Trial Court. 9. Now let us deal with the other case laws which have been relied upon by the applicant. a. Satender Kumar Antil Vs. C.B. I. reported in 2022 AIR Supreme Court 3386 b. Sanjay Chandra Vs. C.B.I. reported in 2011 (4) R.C.R. (Criminal) 898 c. Pankaj Kumar Vs. State of Punjab in Crim-M-43188-2023 (O & M) dated 16/01/2024 by Hon'ble Supreme Court of India d. Manish Sisodia Vs. Directorate of Enforcement reported in 2024 (3) R.C.R. (Criminal) 877 e. Dharendra Singh @ Chintu S/o Shri. Surya Baksh Singh and others Vs. Union

of India and others reported in 2023 (3) RLW 2408 f. Chidambaram Vs. Directorate of Enforcement reported in 2019 (4) Crimes 253 g. Prahlad Singh Bhati Vs. N. C. T., Delhi and Anr. reported in 2001 (2) Supreme 550 10. I have carefully gone through all the above case laws. On careful reading of the same, it reveals that the issue of bail in GST matter was not under consideration therein and therefore they can be distinguished. 11. Now, let us deal with the case laws which have been relied upon by complainant/respondent - a. Hira Gobind Bhatia Vs. State of Central Goods and Services Tax reported in 2023 (78) GSTL 81 (Bom) (Hon'ble High Court of Bombay) b. Sheetal Mittal Vs. State of Rajasthan reported in 2023 (74) GSTL 03 (S.C.) Supreme Court of India c. Sanjay Drolia @ Sanjay Kumar Drolia Vs. Nil reported in AIRONLINE 2019 CAL 466 So far as all these case laws are concerned, they deal with the parameters for consideration of an anticipatory bail in relation with the offences covered under CGST Act. In the matter at our hand we are dealing with the regular bail and therefore the above three case laws can be distinguished. d. State of Gujrat Vs. Choodamani Iyer in Criminal Appeal Nos. 4212-4213 of 2019 decided on 17/07/2023 by Hon'ble Supreme Court So far as this case law is concerned, the power to arrest under Section 69(1) of the Commissioner and scope of Section 41 as well as 41-A of Cr. P. C. has been

discussed therein. In the matter at our hand, applicant has not seriously challenged his arrest. Therefore, the issue involved in the case law being different will not have any application. e. Amit Beriwal Vs. State of Odisha in BLAPL No. 2217/2020 decided on 27/07/2020 by Hon'ble High Court of Orissa : Cuttack f. Basudev Mittal Vs. Union of India reported in AIRONLINE 2022 CHH 107 g. Vikas Goel & another Vs. Central Goods and Services Tax Commissionerate Gurgaon in CRM No. M 45649 of 2018 decided on 13/12/2018 by Hon'ble High Court of Punjab and Haryana at Chandigarh h. Chhatar Singh Niku Singh Vs. State of Odisha reported in 2023 Cri. L. J. (NOC) 333 (ORI) In all the above case laws, the Hon'ble Orissa High Court, Hon'ble Chhattisgarh High Court and Punjab & Haryana High Court have declined to grant regular bail by holding that the grave offences affecting economy of the country as a whole posing serious threat to the financial health of the country have been committed. These case laws being of different High Courts, they have persuasive value and as such they have no binding force. Additionally, a contrary view i.e. favourable to the accused against whom offences under GST Act have been levelled, has been taken by our Hon'ble High Court in the case of Rahul (cited supra), which will prevail. i. Nimmagadda Prasad Vs. CBI reported in 2013 AIR SCW 3795 (Supreme Court of India So far as this case law is con-



cerned, the bail application arising out of GST Act was not at all under consideration therein and therefore the said case law can be distinguished. 12. Considering all the above aspects and totality of facts as well as circumstances of the matter at our hand, this court is of the clear opinion that the applicant is certainly entitled to have his release on bail. Hence, following order is passed to meet the proper ends of justice - ORDER 1. Criminal Bail Application No. 4596/2024 in Pvt. RCC No. 3008/2024 in case No. DGG/INV/GST/1109/2024 - GrA - O/o ADG - DGGI - ZU -

PUNE registered with DGGI, Zonal Unit, Pune is hereby allowed as under : 2. The applicant Dinesh Kumar arrested in Pvt. R.C.C. No. 3008/2024 arising out of Case No. DGG/INV/GST/1109/2024 - GrA - O/o ADG - DGGI - ZU - PUNE for the offence punishable under Section 132 (1)(b), 132 (1)(c), 132(1)(1) and 132(2) R/w Sec. 132 (5) of Central Goods and Services Act, 2017, be released on executing P. R. bond of Rs. 1,00,000/- (Rupees One Lac only) with one or two solvent sureties in the like amount. 3. The applicant shall attend the office of the respondent / complainant as and when

required for the investigation purpose, only under written intimation. 4. The applicant shall surrender his passport before learned Chief Judicial Magistrate, Pune within a week from the date of his release from the jail and also provide his mobile number with address proof alongwith mobile numbers & address proofs of two of his relatives and surety to the Investigating Officer. 5. The applicant shall not leave India without prior permission of the trial court. 6. Bail compliance before Ld. Chief Judicial Magistrate, Pune.



“End is not the end if fact E.N.D. Means “Efforts Never Dies. – Dr. A.P.J. Abdul Kalam



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