

GST NEWSLETTER

ISSUE 09 | FEBRUARY 2022

INDEX



1. Article [pg 2-4]
a. GST Audit



2. Case Laws [pg 5-7]
a. GST Implication on providing warehousing facility to Cotton Corporation of India (CCI) - Telangana AAR

b. Separate GST Registration not required in importing state if imported goods are sold directly from the port of import- AAR Karnataka



3. Notifications and Circulars [pg 8]



4. Due Dates [pg 8]

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ADVISORY AND BUSINESS
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In an era of rapid change, heightened scrutiny, and unprecedented technological change, quality of thinking and delivery are more important than ever. Since inception, our mission has been to provide quality services without compromising on ethics and values.

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ARTICLE

Role Of Management In GST Audit

What Is GST Audit?

- ✓ The examination of books of accounts returns filed & other records maintained, as required, by the registered person to ensure that turnover declared, taxes paid, refund claimed and input tax credit availed is correct'.
- ✓ To assess compliance with the provisions of this Act or rules made thereunder in terms of Section 2(13) of the CGST Act, 2017.

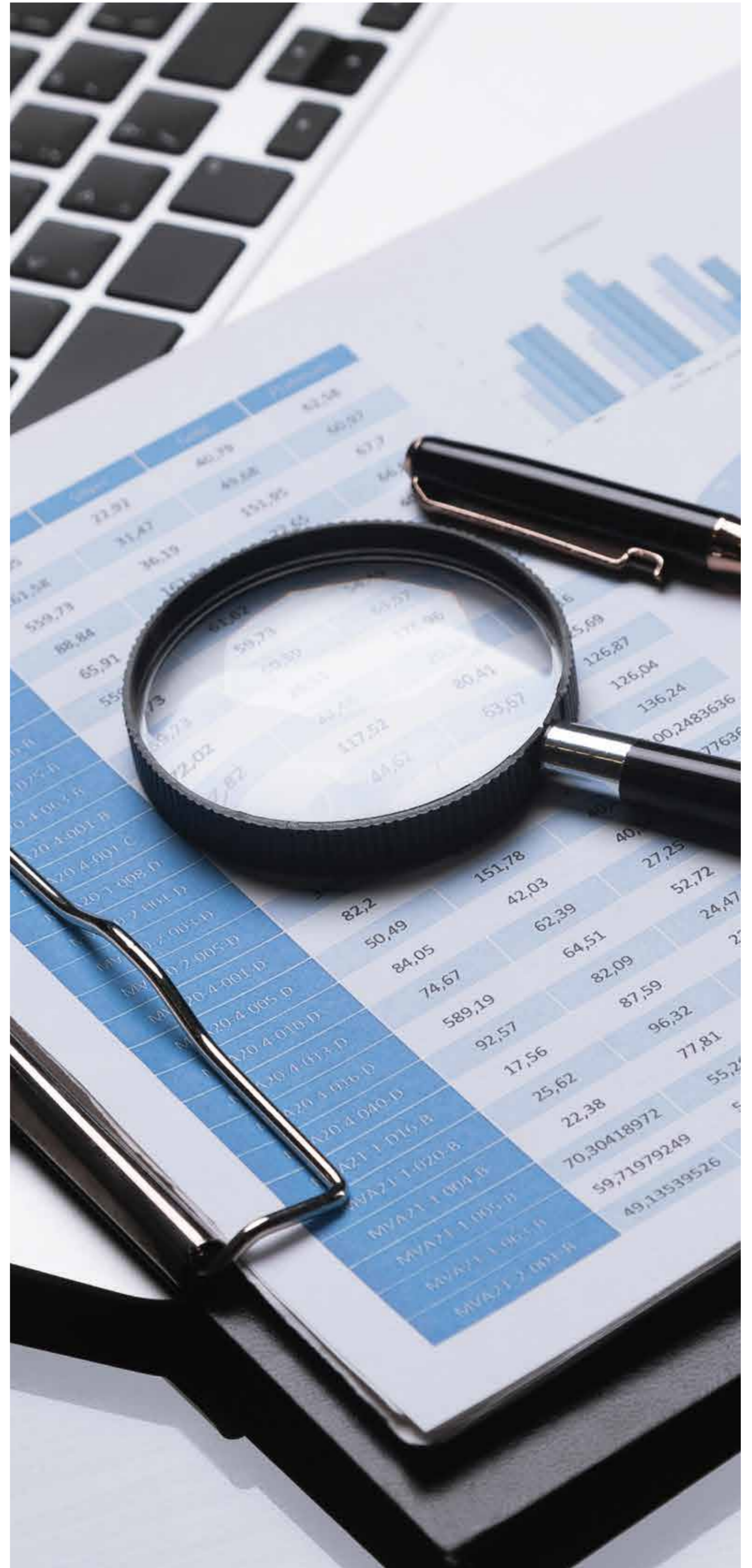
Thus, the intent of provisions related to GST audit is clear to ensure smooth compliance with all the provisions envisaged in GST law.

Applicability Of GST Audit

Till the Financial Year 2019-20, Businesses were liable to get their books of accounts audited by Practicing Chartered Accountant or a Cost Accountant and submit a Reconciliation Statement in Form GSTR 9C duly certified by the Practicing Chartered Accountant or a Cost Accountant.

Therefore,

- ✓ Form GSTR-9 (annual return) will be optional for taxpayers having aggregate Annual Turnover up to Rs. 2 Crore.
- ✓ Reconciliation statement in Form GSTR 9C accompanied by a Certificate from Practicing Chartered Accountant or a Cost Accountant will be made optional for taxpayers having aggregate Annual Turnover up to Rs. 5 Crore.



However, from Financial Year 2020-2021, the Central Board of Indirect Taxes (CBIC) withdrew the requirement for Certification of GST returns and books of accounts by a Practicing Chartered Accountant or a Cost Accountant in the name of 'Simplification of GST'. The Hon'ble FM in Budget Speech on 1st February 2021, announced the omission of Section 35(5) and substituted Section 44 by Section 110 & 111 of the Finance Act, 2021 respectively in the CGST Act, 2017.

Post this amendment, Form GSTR-9C will be a self-certified reconciliation statement by the registered taxpayers who have crossed the turnover beyond the threshold limits.


Subsequently, the CBIC also extended the due dates for filing GSTR 9 & 9C as below

Form Name	Applicability for FY 2020-21	Original due date for FY 2020-21	Revised due date for FY 2020-21
NA	Turnover up to Rs. 2 Crores	Optional	Optional
Form GSTR-9	Turnover > Rs. 2 crores and up to Rs. 5 Crores	31st December 2021	28th February 2022
Form GSTR-9C	Turnover > Rs. 5 Crores		

Shifting the responsibility to Management

GST Annual compliance seems to have been simplified for taxpayers with the removal of GST audit and audit certification by practicing CAs/CMAs. On the flip side, Finance Head's/CFO/ Account's Head of taxpayers will have added responsibility on their shoulders to report correct figures in Forms GSTR-9 and GSTR-9C.

With this move being notified for FY 2020-21, every CFO / Finance Head / Accounts Head of applicable taxpayers must first ensure that they have updated themselves. They also need to align internally with their in-house accounts team with required data to be filled in the format of Form GSTR-9 and Form GSTR-9C.



The government intends to reduce its verification criteria by removing the GST audit certified by practicing CAs/CMAs. Therefore, this may indirectly increase the scrutiny procedures by the Revenue department. If the Revenue department identifies any willful non-compliance or incorrect reporting, such taxpayers may attract a levy of heavy penalties. Hence, taxpayers must, Suo-moto, report any unreconciled figures as in Form GSTR-9C without any further mistakes. Taxpayers are encouraged to seek out expert opinions and observations made by their statutory auditors regarding their GST compliance while preparing Form GSTR-9 & Form GSTR-9C. In case the taxpayers identify any issues that result in an additional payment of tax or interest, then they must make use of Form DRC-03 during or post Form GSTR-9 and Form GSTR-9C.

Hence, Finance heads/CFOs/Account heads must have adequate experienced team members to perform these complex reconciliations before the due date as prescribed by the law for adjustments and corrections to data reported in Form GSTR-1 & GSTR-3B for a particular financial year. The deadline happens to be the due date of filing GSTR-1 and GSTR-3B of September of the year following the relevant financial year i.e., 20th October 2021 for the FY 2020-21 (now proposed to be extended to 30th November by Union Budget 2022-23). These actions will directly allow the taxpayer to prepare and report accurate GST data, reducing the chances of any future GST demand notices and expensive litigations.

Further, CFOs/ Account heads/ Finance heads must also set up a robust control system internally to prepare & report GST reconciliations at the PAN-India level. Even though reporting is at GSTIN-level, these leaders must ensure data consistency in annual returns compared to the income tax returns, which can be achieved through automation and tech-enabled systems.

In Conclusion, with the removal of GST audits by Tax Professionals, business entities must ensure proper preparations and accurate reconciliations with their audited books of accounts and GST returns to safeguard themselves from possible notices from Revenue Authorities. Businesses also have the option to appoint Tax Professionals to carry out the preparation and reconciliations even if it's not mandated by law anymore, as the experience and insight of Tax Professionals will ensure proper compliance and a significant reduction in chances of litigation.

CASE LAWS

M/s. Kakkirala Ramesh by Telangana AAR (No.- A.R.Com/22/2018 TSAAR Order No.10/2021 dated 20/09/2021)

Facts Of The Case

The Applicant M/s. Kakkirala Ramesh is providing storage services to different customers and also to the Cotton Corporation of India (CCI) which consists of the storage of 'Fully Pressed Cotton Bales'. The applicant submitted that CCI is objecting to levy of GST on storage service by relying on Circular No. 16/16/2017-GST issued by the Central Warehousing Corporation.

As per the said Circular, the applicant argues that it is not storing agricultural products such as Raw Cotton, Jute, etc, but storing commercially processed products called 'Fully Pressed Cotton Bales', hence the same is taxable.

Provision Of Law

As per Entry 24B of notification 21/2019, 'Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable, fibers such as cotton, flax, jute, etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee, and tea.' are exempt.

While exempting the support services to agriculture, hunting, forestry, fishing, mining, and utilities under service head 9986 in Notification No. 20/2019-Central Tax (Rate), dt 30-9-2019, Notification No. 11/2017 is modified to include only those activities which are done on-farm for making the product marketable for the primary market which does not alter the essential characteristics of agricultural produce.

Ruling Of AAR

The learned Telangana AAR held that-

The CCI has purchased raw cotton from farmers in the primary market and then processed it in ginning mills on a job work basis. This processing is not meant for the primary market and hence it cannot be treated as raw cotton. Therefore it cannot be claimed that the cotton stored by CCI in the warehouses of the applicant falls under Entry 24B of Notification No. 21/2019 dated: 30-9-2019 and hence are taxable at the rate of 9% under CGST and SGST each.

Facts of the Case - M/s. Pine Subsidiary Industry by Karnataka AAR (No.- KAR ADRG 57/2021 dated 29/10/2021)

Facts Of The Case

The Applicant M/s. Pine Subsidiary Industry, having GST registration in Karnataka, is engaged in the import and trading of Gum Resin and Damar Battu, etc.

The applicant has sought an advance ruling in respect of the following questions

- Whether Tax Invoice from Bengaluru office (Registered Place of Business) for imports received at Chennai Sea Port and directly sold to a customer either in Andhra Pradesh, Tamil Nadu, etc., could be raised, or separate registration is to be obtained at the place of Importation, i.e. Tamil Nadu for the mentioned transactions? Whether the contents and details of the sample draft invoice are correct in law.
- If we do not need separate registration in Tamil Nadu, can we do the transaction using Karnataka GSTIN. If yes, then in case of issuance of the E-way bill, is it correct to mention the GSTIN of Karnataka and the place of dispatch as Chennai Sea Port?
- Whether Input tax credit would be available to the registration in Karnataka u/s. 16(2) even though the goods have not been physically received in the premises of the applicant but directly transported to the customer? What is the required documentation to avail input tax credit in such cases?

Provision Of Law

Section 7(2) of the IGST Act, 2017 states that the supply of goods imported in India shall be treated as supply of goods in the course of inter-state trade or commerce.

As per Section 11(a) of the IGST Act, 2017, the place of supply of goods,

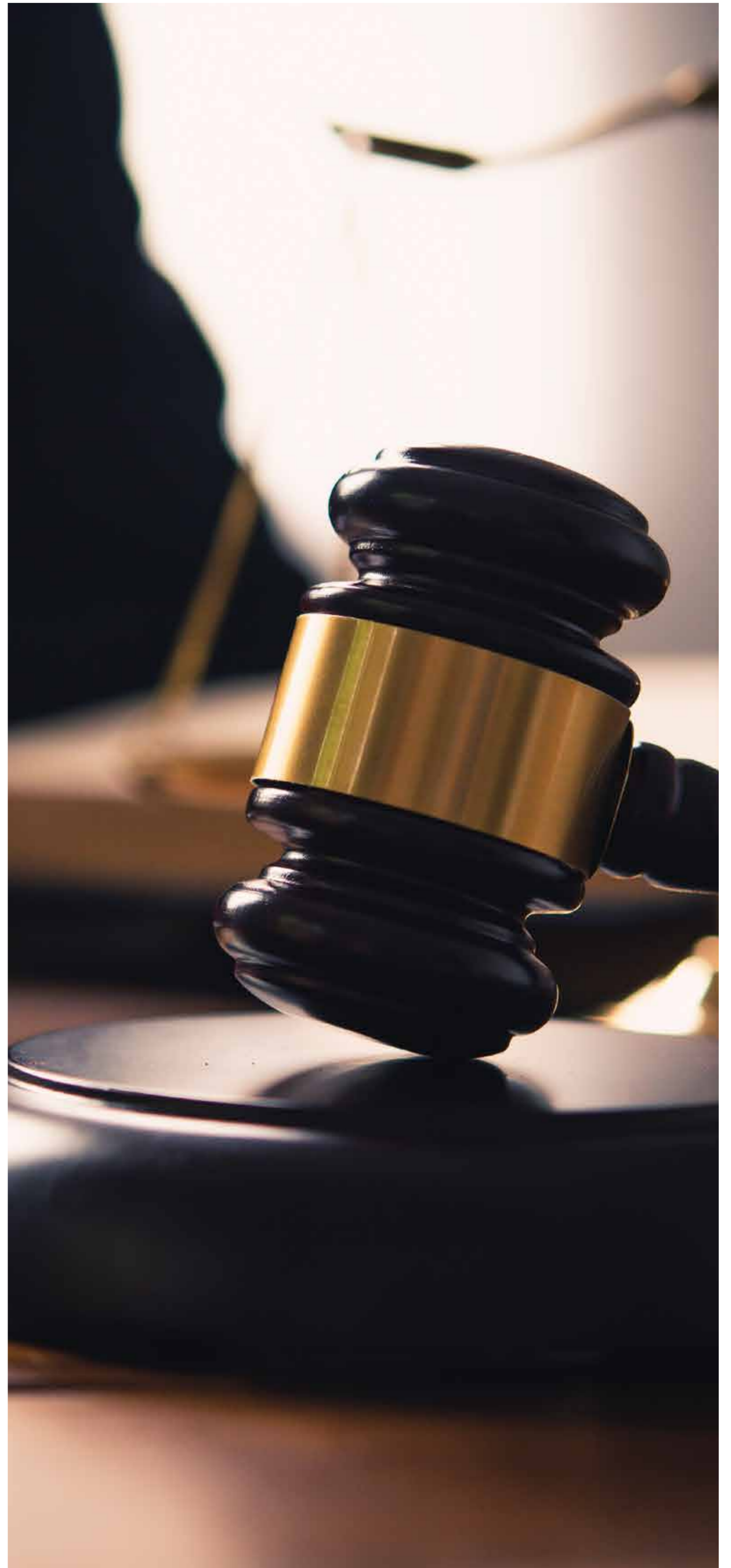
- Imported into India shall be the location of the importer;
- Exported from India shall be the location outside India.

Section 16(2) of the CGST Act, 2017 provides that the goods should be received in order to avail input tax credit. The explanation to the said section also provides that where goods are directly delivered to a customer under a bill to ship to model then it would be deemed to have received the goods even though the goods are shipped to the end customer location directly.

Ruling Of AAR

The learned Karnataka AAR held that

- The applicant can issue a tax invoice with IGST to the customer outside Karnataka for the inter-State transaction when the goods are directly dispatched from the port of import with invoicing done from the registered place of business and a separate registration need not be obtained at the place of importation.
- The applicant can do the transaction using Karnataka GSTIN. In case of issuance of the E-way bill, the applicant can mention the GSTIN of Karnataka and the place of dispatch as Chennai seaport.



NOTIFICATIONS AND CIRCULARS FOR THE MONTH OF JANUARY 2022

✔ One Instructions. - [Click here](#)

Sl. No	Subject	Notifications/Circulars No. Date of Issue
1.	Guidelines for recovery proceedings under the provisions of section 79 of the CGST Act,2017 in cases covered under explanation to sub-section (12) of section 75 of the CGST Act,2017-Reg.	01/12022-GST Dated : 07/01/2022

DUE DATES OF GST FOR THE MONTH OF FEBRUARY 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	GSTR-8, GSTR-7 10	* GSTR-1 11	12
* IFF (OPTIONAL) GSTR-6 13	Generation of Form GSTR 2B 14	15	16	17	18	19
* GSTR-3B, GSTR-5, 5A 20	21	* PMT-06 22	23	* PMT-06 24	25	26
27	* GSTR-9, GSTR-9C 28					

* Monthly returns for taxpayers with Annual Turnover more than Rs. 5 Crores or Taxpayer who has opted Monthly return option.

* Quarterly returns for taxpayers with Annual Turnover less than Rs. 5 Crores and opted for quarterly return option (QRMP); based on the State of the taxpayer.

* GSTR 9 of FY 2020-21 for taxpayers whose aggregate annual turnover of FY 2020-21 exceeds Rs. 2 Crores and GSTR 9 and 9C of FY 2020-21 for taxpayers whose aggregate annual turnover of FY 2020-21 exceeds Rs. 5 Crores.




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