

GST NEWSLETTER

ISSUE 11 | APRIL 2022

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**LEADING FINANCIAL
ADVISORY AND BUSINESS
CONSULTING FIRM**

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Quality and integrity is at the heart of everything we do. We are continuously investing in technology, people, and innovation to enhance our professional services. This investment of InCorp Advisory will benefit our organization and clients we serve.

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ARTICLE

TAXATION

E- Way Bill System Under GST

Electronic Way Bill (E-Way Bill) is a compliance mechanism which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business providing the relevant information prior to the commencement of movement of goods.

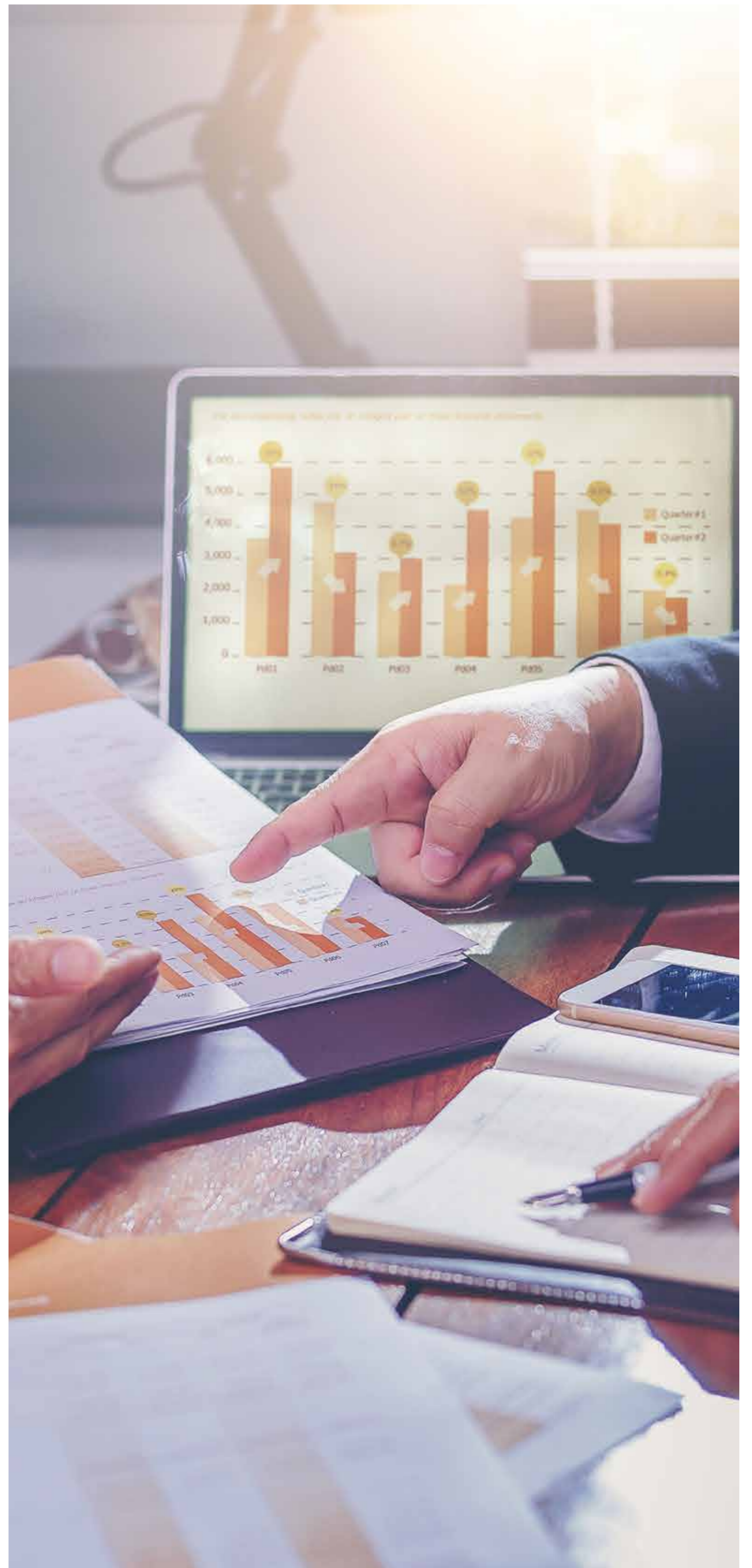
The E-way Bill System for Inter-State movement of goods across the country has been introduced from 01 April 2018.

In this article we will take a look at the e-way bill system under GST.

✔ What is E way Bill?

E-way bill is a receipt or a document required to be carried by a person in charge of the conveyance carrying any consignment of goods. It is to be generated before the commencement of movement of goods or consignment. It is generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees (either each Invoice or in aggregate of all invoices in a vehicle/conveyance) –

- (i) When making supplies of goods
- (ii) When transporting the goods for
- (ii) When transporting the goods for reasons other than supply (e.g., sending the goods for job-work,)
- (iii) When goods are received from an unregistered person. (e.g., importing goods from outside India)



E-way Bill is to be generated even if the consignment value is less than fifty thousand rupees in following cases:

- Interstate movement of goods by the principal to job worker and from job worker to the principal
- Interstate transport of handicraft goods by a dealer exempted from GST registration.

There are certain states such as Maharashtra, Delhi, West Bengal, Bihar, Punjab Jharkhand and Tamil Nadu where the threshold limit for intra-state movement is kept as Rs. 1 lakh instead of Rs. 50,000. However in case of interstate movement the limit will remain Rs 50,000.

✔ **What are the Components of E-way Bill?**

An E-Way Bill Form – GST EWB-01 has two components:

Part A:

Part A of an E-Way Bill carries important information about the consignor and consignee like:

- | | | | |
|----------|------------------------------------------|----------|-----------------------------------|
| 1 | Details of GSTIN of the Supplier | 6 | Invoice or Challan Date |
| 2 | Place of Dispatch (PIN Code) | 7 | Value of Goods |
| 3 | Details of GSTIN of the Recipient | 8 | HSN Code |
| 4 | Place of Delivery (PIN Code) | 9 | Reasons for transportation |
| 5 | Invoice or Challan Number | | |

Part B:

Part B of an E-Way Bill carries details about the vehicle comprising of transporter like (to be filled by transporter):



Vehicle number.



Transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number)

Who can generate E-way bill?

E-way bill is to be generated by

- Supplier or Customer (or their agents) : if the transportation is done in own/hired vehicle or railways or airways or waterways.
- Transporter of goods:
 - a. if the goods are handed over to a transporter for transportation by road..
 - b. If neither the consignor nor consignee generates the e-way bill and the value of goods is more than Rs.50,000/-.
- Transporters not registered under GST may also generate the E-way bill provided they register on the E-way bill portal and are allotted a Transporter ID.
- If the goods are transported from one state to another for the purpose of Job Work, then the principal will have to generate the E-way bill regardless of the value of goods consignment.
- Also, where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

Once the e-way bill is generated on the common portal, a unique E-way Bill Number (EBN) is allocated which is available to the supplier, recipient, and the transporter on the said portal.

✔ **What is the Validity of the E-Way Bill?**

- The validity of e-way bill is based on the distance the goods have to be transported.
- In case of the distance of less than 200 Km, the e-way bill will be valid for a day from the date and time at which the E-way bill has been generated.
- For every 200 Km or part thereafter, the validity will be additional one day..

In general, the validity of the e-way bill cannot be extended. However, if under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GST EWB-01.

✔ **Whether E way bill can be modified?**

An e-way bill once generated cannot be modified except Part B which can be updated with transport details. In case the information provided is not correct while generating e-way bill, such e-way bill have to be cancelled within 24 hours of its generation. Unless, old e-way bill is cancelled, new e-way bill cannot be generated against same invoice.






✔ What are the exceptions to E-way bill?

An E-way bill need not be generated in the following circumstances:

- Where the goods are being transported by a non-motorized conveyance (e.g., push-cart, cycle, animal carriages);
- Where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- Where the goods are being transported—
 - (i) Under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 - (ii) Under customs supervision or under customs seal;
- Where the goods being transported are transit cargo from or to Nepal or Bhutan;
- Any movement of goods caused by defense formation under Ministry of defense as a consignor or consignee;
- Where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- Where empty cargo containers are being transported;
- Where the goods are being transported up to a distance of twenty kilometers from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55; and
- Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.
- For the transportation of the following goods:
 - a. Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
 - b. Kerosene oil sold under PDS
 - c. Postal baggage transported by Department of Posts

- 
- d. Natural or cultured pearls and precious or semi-precious stones precious metal and metals clad with precious metals (Chapter 71)
 - e. Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
 - f. Currency
 - g. Used personal and household effects
 - h. Coral, unworked (0508) and worked coral (9601)
 - i. Alcoholic liquor for human consumption,
 - j. Petroleum crude,
 - k. High speed diesel,
 - l. Motor spirit (commonly known as petrol),
 - m. Natural gas or aviation turbine fuel
 - n. All goods exempted from GST under notification no. 02/2017 CT(R) dated 28th June 2017 except de-oiled cake.
 - o. Supply of goods by CSD and Unit run canteens (Defense Ministry)
 - p. Intra-state supply of heavy water and nuclear fuels by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd.

Conclusion

E-way bill is a mechanism to ensure that goods being transported comply with the GST Law and is an effective tool to track movement of goods and check tax evasion.

CASE LAWS

GST Rate On Pizza Toppings

Facts Of The Case

M/s. Khera Trading Company - Appellate Authority for Advance Ruling, Haryana (Case law no. HAR/HAAAR/2018-19/06).

The Appellant is engaged in the distribution of various dairy and non-dairy products which includes a product called "Pizza Topping" sold under the brand name of "Goodrich". It consists of water, mozzarella cheese (14.5%), vegetable oil (22%) and milk solids (15%) along with premixes of emulsifiers and stabilizers and is used on pizza as cheese toppings for smooth lasting taste and stringiness of pizza.

The Appellant had approached the Advance Ruling Authority (ARA) of Haryana for classification of "Pizza Topping" under 0406 as a type of cheese as it contains cheese and milk products. However, the ARA ruled that it's not processed cheese under chapter heading 0406 but "Food Preparations not elsewhere specified or included" under chapter heading 2106.

Aggrieved by this the appellant has approached the Appellate Authority for Advance Ruling.


Provision Of Law

As per the Customs Tariff Act, 1975, heading 0406 covers different types of cheese such as fresh cheese, powdered cheese, processed cheese, blue-veined cheese, soft cheese, medium-hard cheese and hard cheese, which is taxable at 12%. Items which are not specified under chapter 4 is taxable at 18% being classified under chapter heading 2106.

Ruling of AAR

The Appellate Advance Ruling Authority held that the product "pizza topping" should be classified under 2106 'Miscellaneous Edible Preparations - food preparations not elsewhere specified or included' and chargeable to GST at 18% due to the following reasons:

- The explanatory note to 0406 has clearly defined the product 'processed cheese' wherein the mixing and combination of ingredients are limited to one or more varieties of cheese with one or more of: - cream



or other dairy products, salt, spices, flavouring, colouring and water. By any stretch of imagination 'vegetable fat' cannot be understood to be included in the above combination of ingredients

- Vegetable fat is the major constituent (22%) and the cheese constitutes only 14.5%. Hence the impugned product cannot be considered to be a type of cheese.

GST On Rent-free Accommodation Provided To A Partnership Firm By Its Partner

Facts Of The Case

M/S. Shanmuga Durai - Authority for Advance Ruling (ARA), Tamilnadu (Case Law no. TN/03/ARA/2022)

The Applicant is a Managing Partner in partnership firm holding 2/3rd shares of the firm. He has let-out various properties to the partnership firm on a rent-free basis. He has approached the ARA for a ruling on whether GST is payable on the property let-out rent free and if so, what is the valuation to be made on such notional rent.

Provision Of Law

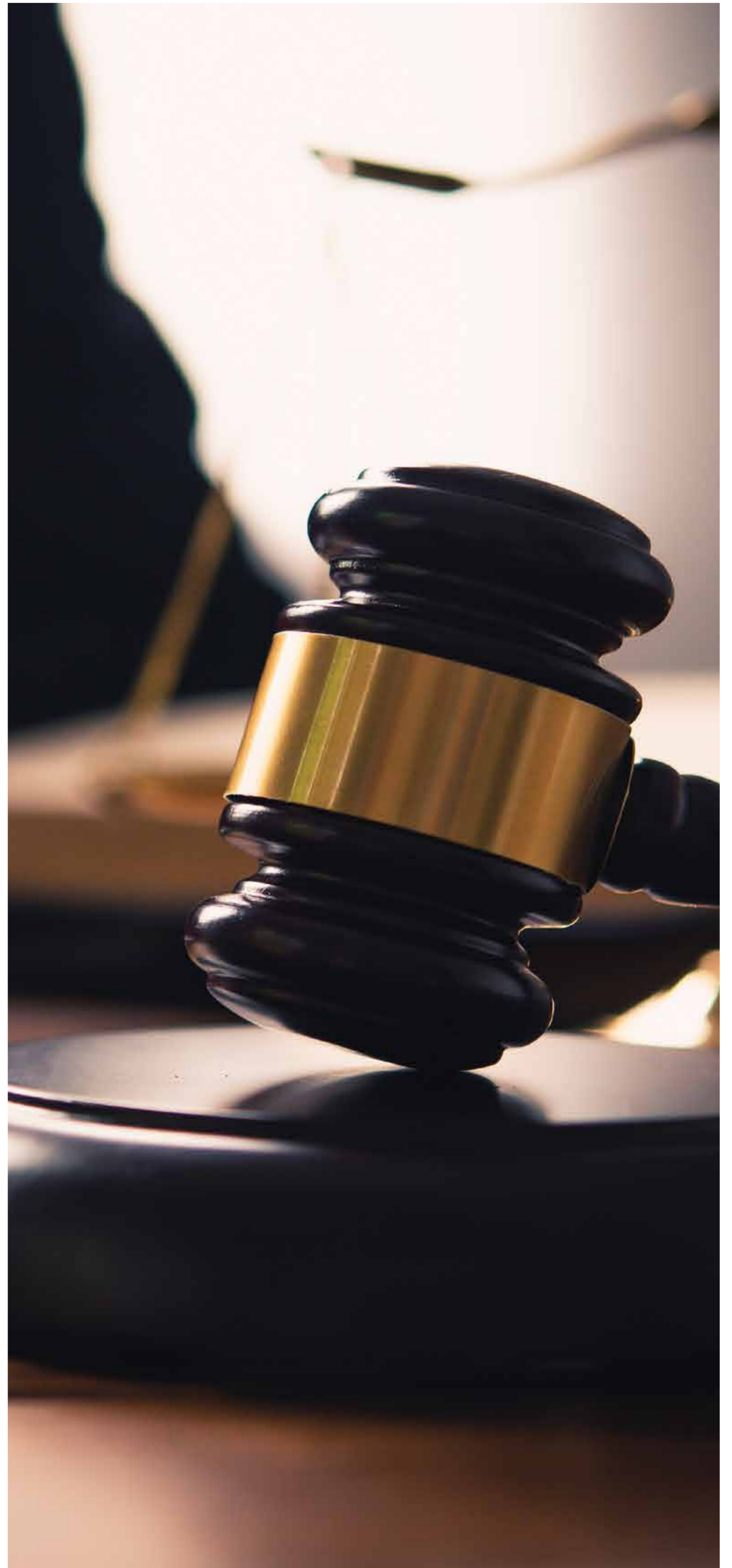
As per Schedule I of CGST Act, 2017, supply between related persons or between distinct persons as specified in section 25(4), when made in the course of furtherance of business is to be treated as supply, even if made without consideration.

As per Section 2(17) of the CGST Act 2017, "Business" includes any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit.

Ruling Of AAR

The ARA held that the letting out of the properties by a partner to the partnership firm rent-free is chargeable to GST and should be valued as per valuation methods (1st preference Open Market Value) for the following reasons:

- The ARA observed that the applicant renting out the property on rent-free basis eases out the burden of rent to be paid by the partnership firm. Thereby, reduce in such expenditure leads to increase of profit, which is eventually accrued to the applicant in capacity of being a partner. Thus, indirect pecuniary benefit is derived by the applicant and supply can be said in the course of furtherance of business.
- The Applicant and the Partnership firm are classified as “related persons” under Section 15, as he owns 2/3rd shares of the firm and has major controlling power in the firm. Therefore, as per Schedule I, the supply of service between such related person when made in the course or furtherance of business, even without consideration is taxable under GST.



NOTIFICATIONS AND CIRCULARS FOR THE MONTH OF MARCH 2022

- ✓ One Central Tax Circular. - [Click here](#)
- ✓ Three Central Tax Notification. - [Click here](#)
- ✓ Two Central Tax Rate Notification. - [Click here](#)
- ✓ Two Integrated Tax (Rate) Notification. - [Click here](#)

Sl. No	Subject	Notifications/Circulars No. Date of Issue
1.	Amendment to Circular No. 31/05/2018-GST, dated 9th February 2018 on 'Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017	CBIC- 20016/2/2022-GST Dated: 12/03/2022
2.	Seeks to amend notification no. 14/2019-Central Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC	04/2022-Central Tax Dated: 31/03/2022
3.	Seeks to amend notification no. 10/2019-Central Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC	03/2022-Central Tax Dated: 31/03/2022
4.	Appointment of Common Adjudicating authority for adjudicating the show cause notices issued by DGGI under GST.	02/2022-Central Tax Dated: 11/03/2022
5.	Seeks to provide for a concessional rate on intra state supply of bricks conditional to not availing the ITC, as recommended by 45 GSTC	02/2022-Central Tax (Rate) Dated: 31/03/2022
6.	Seeks to amend notification No. 1/2017-Central Tax (Rate)	01/2022-Central Tax (Rate) Dated: 31/03/2022
7.	Seeks to provide for a concessional rate on interstate supply of bricks conditional to not availing the ITC, as recommended by 45 GSTC	02/2022-Integrated Tax (Rate) Dated: 31/03/2022
8.	Seeks to amend notification No. 1/2017-Integrated Tax (Rate)	01/2022-Integrated Tax (Rate) Dated: 31/03/2022

DUE DATES OF GST FOR THE MONTH OF APRIL 2022

APRIL

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	* GSTR-1 (Jan-Mar), GSTR-6 13	14	15	16
17	CMP-08 18	19	* GSTR-3B, GSTR-5, GSTR-5A 20	21	* GSTR-3B (Jan-Mar 2022) 22	23
* GSTR-3B (Jan-Mar 2022) 24	25	26	27	28	29	GSTR-4 (2021-22) 30

2022

* 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 monthly payment option (QRMP).

- 22nd is for taxpayers registered in Chhattisgarh, Madhya Pradesh, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh.

- 24th is for taxpayers registered in Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha.




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