

GST NEWSLETTER

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**LEADING FINANCIAL
ADVISORY AND BUSINESS
CONSULTING FIRM**

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ABOUT US

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.

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

Demystifying “Fake Invoicing”

Currently, the issue on fake invoices is the talk of the town. It is a common misconception that when one is compliant, they do not have to worry about anything. However, the GST Department has a contrasting plan altogether.

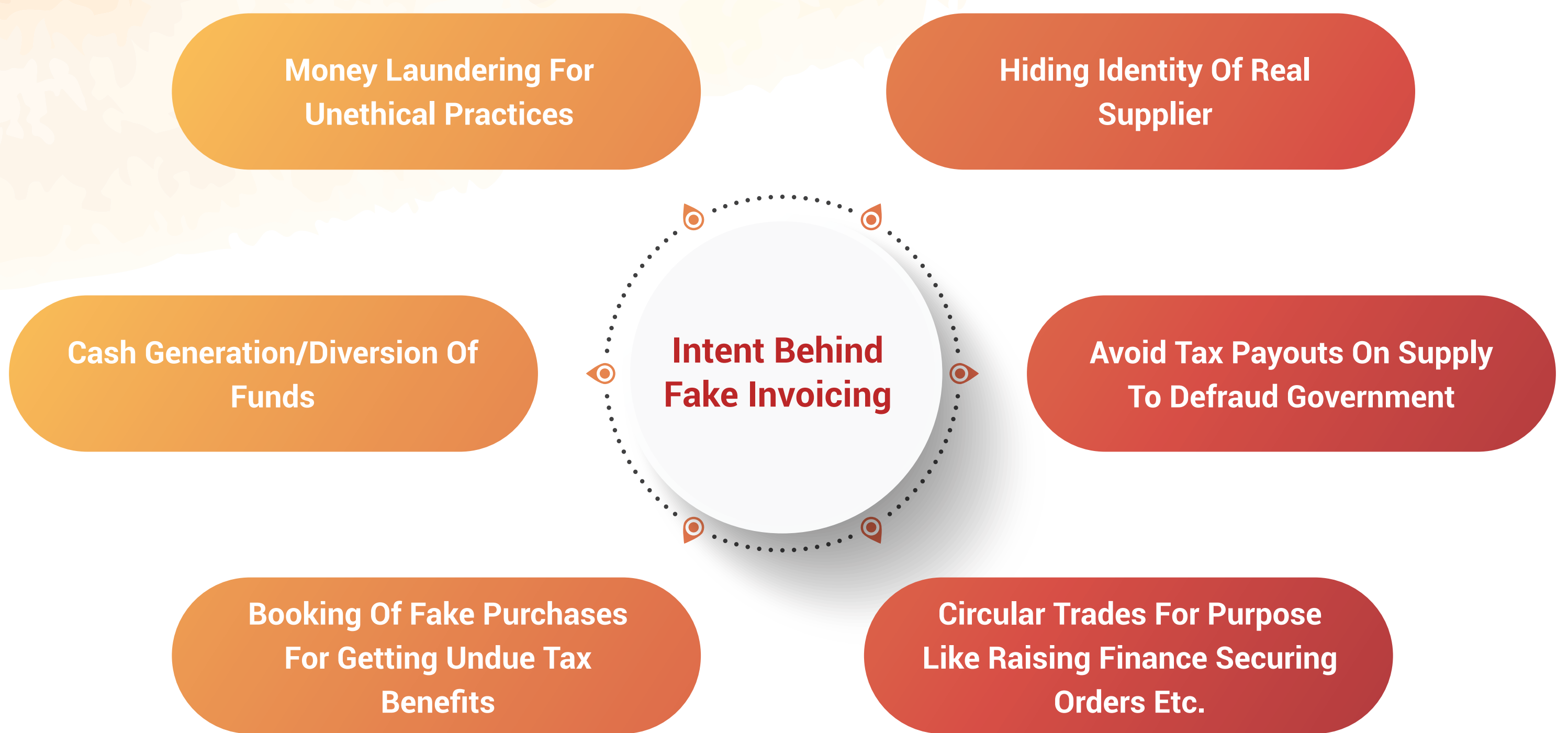
The issue on fake invoices has a much wider scope and incomprehensible repercussions. Despite one being 100% GST compliant, the department can bring an assessee under the purview of fake invoices.

Here’s a deep dive into the impact of this issue raise under circular but before that let’s understand basic fundamental on “Fake Invoicing”.

Introduction

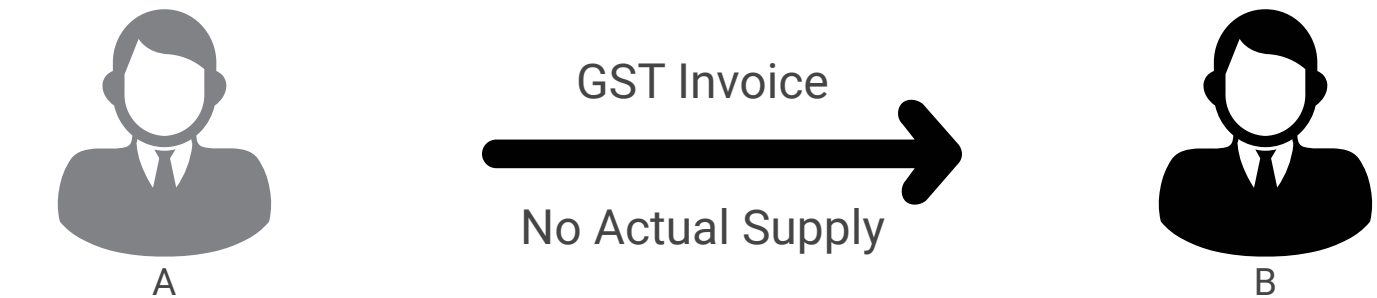
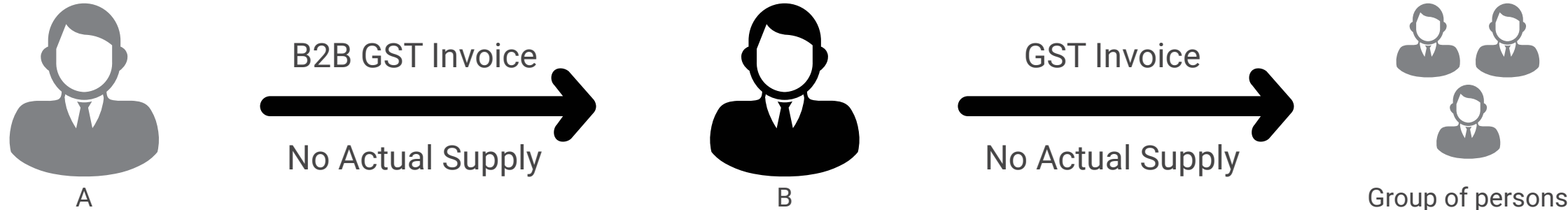
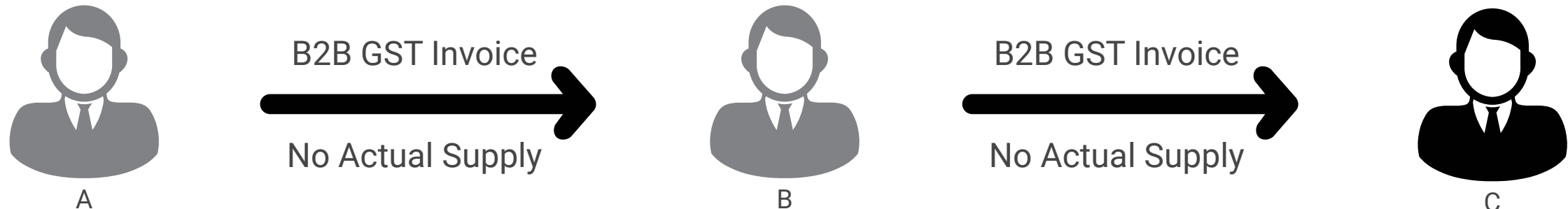
Fake invoices are not defined under any law. It is interpreted over the years with trade practices and legal precedents under laws where violations from legal provisions are triggered. The invoices are called as fake where the GST invoices are raised by a **fictitious entity** or by any entity **without actual supply** of goods/services or **without payment of taxes**.





✔ Implications Of Current Clarificatory Circular No 171/03/2022-GST Dated 06th July,2022

Recently, the Department of revenue – Central Board of Indirect Taxes & Customs issued a clarificatory notification (**No. 171/03/2022-GST dated 06.07.2022**) addressing the matter of issue of fake invoices. The circular addresses the transactions that can be regarded as “issuance of fake invoice” along with respective levy of demand and penalty on the concerned parties to the transactions. Circular is establishing position for the Assessing officers by removing ambiguity prevailing under GST provisions before 6th July,2022.

Sr. No	Issue	Actual supply of goods or services or both		Input tax credit	Demand/ recovery			Penalty		
		A	B		A	B	C	A	B	C
1.	 <p>A registered person "A" has issued tax invoice to another registered person "B" without any underlying supply of goods or services or both.</p>	×	N/A	Inadmissible	×	N/A	N/A	✓	N/A	N/A
2.	 <p>A registered person "A" has issued tax invoice to another registered person "B" without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice. B further issues invoice along to his buyers and utilizes ITC availed on the basis of the above-mentioned invoices issued by 'A', for payment of his tax liability in respect of his said outward supplies.</p>	×	×	Inadmissible	×	✓	N/A	✓	×	N/A
3.	 <p>A registered person 'A' has issued tax invoice to another registered person 'B' without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice and further passes on the said input tax credit to another registered person 'C' by issuing invoices without underlying supply of goods or services or both.</p>	×	×	Inadmissible	×	×	✓	✓	✓	×



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Key Takeaways:

✔ Intention Of The GST Department:

- To find and penalize all the registered dealers in the chain of fake invoicing having a mala-fide intention to evade taxes and defraud the authorities. However, the recovery of the tax amount will be only from those dealers who have ultimately utilized the benefit of such fake invoice, such as Dealer B in scenario 2 above and only Dealer C in scenario 3 above.
- Actual action to be taken against a person will depend upon the specific facts and circumstances of the case, which may include complex mixture of above scenarios or even may not be covered by any of the above scenarios. GST authorities are not restricted up to registered dealers but empowered to take penal and/ or prosecution action against any person who has retained the benefit of transactions specified under section 122(1A) of CGST Act and the mastermind at whose instance, such transactions are concluded.
- As stated in the definition of fake invoice, it is essential to interpret and understand that the element of “mens-rea” for the use of fake invoices appears to be fraudulent availment/encashment of ITC and defraud the concerned authorities, which can lead to applicability of arrest under Sec.132 of CGST Act. While the presence of “mens-rea” or intention is crucial to identify the crime, generally the onus of proving the intention to evade tax is on the GST department.

✔ Implication On Parties Involved In Fake Invoicing:

- Earlier there was ambiguity as to finding the culprit of this entire transaction trail and in the absence of any clarification, GST authorities were raising Show Cause Notice (‘SCN’) to all the parties in the chain of fake invoicing, resulting into repetitive tax recovery at every layer leading to unresolvable litigation. However, now with introduction of the circular, the scope of the GST officer is directed to issue recovery notice to the intermediaries for penal action.
- Ramifications of fake invoicing are manifold. It is not restricted to the GST department, rather the GST department acts as a bridge of information for various authorities. Ultimately leading to a diverse impact on an assessee involved in fake invoicing. This impact can extend to Income Tax authorities, and money laundering under PML Act amongst others.

(A detailed version of this article has been published in Taxsutra and embedded here for reading convenience.)

CASE LAWS

GST Implication On Storage, Transportation And Treatment Of Agricultural Seeds

Facts Of The Case

M/s. M. Narasimha Reddy & Sons, Telangana AAR - A.R. Com/12/2020 TSAAR Order No.04/2022 dated 11th February 2022

The Applicant, M/s. M. Narasimha Reddy & Sons is engaged in production and processing of agricultural seeds. In the process of production, the applicant outsources certain services such as cleaning, drying, grading and packing to the job workers and stores the seeds in various facilities after processing them.

The Applicant has approached the AAR for the following rulings:

- Whether the seeds processes by the Applicant as a job worker can be considered as 'agricultural produce' for the purpose of exemption
- Whether the storage of seeds, loading / unloading, and packing of seeds as a job worker is exempt from GST
- Whether the cleaning, drying and other treatments on the seeds as a job worker is exempt from GST.

Provision Of Law


Section 2(11) of the Seed Act, 1966 defines seed as:

"Seed" means any of the following classes of seeds used for sowing or planting-

- (i) Seeds of food crops including edible oil seeds and seeds of fruits and vegetables;
- (ii) Cotton seeds;
- (iii) Seeds of cattle fodder;

And includes seedlings, and tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material, of food crops or cattle fodder;"

In terms of Notification No. 12/2017 of GST, serial no. 54E and 54(c)(h), services of storage, loading/unloading, packaging, cleaning, drying, grading and chemical treatments pertains only to cultivation of plants, agricultural produce, etc. only if engaged by a cultivator or an agriculturalist and not to services engaged by.



In terms of Notification No. 11/2017 of GST, serial no. 24(i)(c), (e) and (h), services of storage, loading/unloading, packaging, cleaning, drying, grading and chemical treatments pertains only to support services to agriculture etc. engaged by a cultivator and not to services engaged by a seed company.

Ruling Of AAR

The learned Telangana AAR held that, the applicant has provided the respective services to a Seed Company and not to any cultivator or agriculturalist in order to be eligible for an exemption and therefore, the services are not exempt under GST.

GST Implication On Printing Of Examination Related Products Like OMRs, Marks Sheets Etc.

Facts Of The Case

M/S. Universal Print Systems, Andhra Pradesh AAR, No.- AAR No. 07/AP/GST/2022 dated 30th May 2022.

The Applicant M/s. Universal Print Systems is engaged in the business of printing of pre-examination items like question papers, bar-coded OMR answer booklets, OMR Sheets, and post-examination items like marks card, grade card, certificates to educational boards including scanning and processing of results of examinations and MICR Cheque books, Fixed Deposit Receipts, Tags and Bonds and Variable/Digital/ Personalized Printing of books and certificates. These services are provided only to educational institutions as defined under GST laws.

The Applicant has approached the AAR for ruling on the following:

Whether the printing of pre-examination and post-examination items and scanning and processing of examination results can be treated as exempted supply in terms of serial no. 66 of Notification No.12/2017-CGST [Rate] dated 28-6-2017?

Provision Of Law

As per serial no. 66(b)(iv) of Notification No.12/2017-CGST [Rate] dated 28-6-2017:

Services provided to an educational institution, by way of services relating to admission to, or conduct of examination by, such institution is exempt from GST.

In this regard, educational institution refers to:

- (i) pre- school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;

Ruling Of AAR

The learned AAR held that the services relate to conducting an examination by educational institutions as defined under GST laws and therefore, the services are exempt from GST.



NOTIFICATIONS AND CIRCULARS FOR THE MONTH OF JULY 2022

- ✓ Eight Central Tax Notification. [Click here](#)
- ✓ Nine Central Tax (Rate) Notification. [Click here](#)
- ✓ Nine Integrated Tax (Rate) Notification. [Click here](#)
- ✓ Two Union Territory Tax Notification. [Click here](#)
- ✓ Nine Union Territory Tax (Rate) Notification. [Click here](#)
- ✓ Seven Circulars CGST. [Click here](#)
- ✓ One Order CGST. [Click here](#)

Sl. No	Subject	Notifications/Circulars No. Date of Issue
1.	Seeks to amend notification No. 14/2019-Central Tax	16/2022-Central Tax 13-Jul-2022
2.	Seeks to amend notification No. 10/2019-Central Tax	15/2022-Central Tax 13-Jul-2022
3.	Seeks to make amendments (First Amendment, 2022) to the CGST Rules, 2017	14/2022-Central Tax 05-Jul-2022
4.	Seeks to extend dates of specified compliances in exercise of powers under section 168A of CGST Act	13/2022-Central Tax 05-Jul-2022
5.	Seeks to extend the waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22	12/2022-Central Tax 05-Jul-2022
6.	Seeks to extend due date of furnishing FORM GST CMP-08 for the quarter ending June 2022 till 31.07.2022	11/2022-Central Tax 05-Jul-2022
7.	Seeks to exempt taxpayers having AATO up to Rs. 2 crores from the requirement of furnishing annual return for FY 2021-22	10/2022-Central Tax 05-Jul-2022

Sl. No	Subject	Notifications/Circulars No. Date of Issue
8.	Seeks to notify the provisions of clause (c) of section 110 and section 111 of the Finance Act, 2022	09/2022-Central Tax 05-Jul-2022
9.	Rescinds notification No. 45/2017- Central Tax (Rate)	11/2022-Central Tax (Rate) 13-Jul-2022
10.	Seeks to amend notification No. 2/2022-Central Tax (Rate)	10/2022-Central Tax (Rate) 13-Jul-2022
11.	Seeks to amend notification No. 5/2017-Central Tax (Rate)	09/2022-Central Tax (Rate) 13-Jul-2022
12.	Seeks to amend notification No. 3/2017-Central Tax (Rate)	08/2022-Central Tax (Rate) 13-Jul-2022
13.	Seeks to amend notification No. 2/2017-Central Tax (Rate)	07/2022-Central Tax (Rate) 13-Jul-2022
14.	Seeks to amend notification No. 1/2017-Central Tax (Rate)	06/2022-Central Tax (Rate) 13-Jul-2022
15.	Seeks to amend Notification No 13/2017-Central Tax (Rate) dated 28.06.2017	05/2022-Central Tax (Rate) 13-Jul-2022
16.	Seeks to amend Notification No 12/2017-Central Tax (Rate) dated 28.06.2017	04/2022-Central Tax (Rate) 13-Jul-2022
17.	Seeks to amend Notification No 11/2017-Central Tax (Rate) dated 28.06.2017	03/2022-Central Tax (Rate) 13-Jul-2022
18.	Rescinds notification No. 47/2017- Integrated Tax (Rate)	11/2022-Integrated Tax (Rate) 13-Jul-2022
19.	Seeks to amend notification No. 2/2022-Integrated Tax (Rate)	10/2022-Integrated Tax (Rate) 13-Jul-2022

Sl. No	Subject	Notifications/Circulars No. Date of Issue
20.	Seeks to amend notification No. 5/2017-Integrated Tax (Rate)	09/2022-Integrated Tax (Rate)13-Jul-2022
21.	Seeks to amend notification No. 3/2017-Integrated Tax (Rate)	08/2022-Integrated Tax (Rate)13-Jul-2022
22.	Seeks to amend notification No. 2/2017-Integrated Tax (Rate)	07/2022-Integrated Tax (Rate)13-Jul-2022
23.	Seeks to amend notification No. 1/2017-Integrated Tax (Rate)	06/2022-Integrated Tax (Rate)13-Jul-2022
24.	Seeks to amend Notification No 10/2017-Integrated Tax (Rate) dated 28.06.2017	05/2022-Integrated Tax (Rate)13-Jul-2022
25.	Seeks to amend Notification No 9/2017-Integrated Tax (Rate) dated 28.06.2017	04/2022-Integrated Tax (Rate)13-Jul-2022
26.	Seeks to amend Notification No 8/2017-Integrated Tax (Rate) dated 28.06.2017	03/2022-Integrated Tax (Rate)13-Jul-2022
27.	Seeks to amend notification No. 02/2017-Union Territory Tax	04/2022-Union Territory Tax 13-Jul-2022
28.	Seeks to amend notification No. 02/2019-Union Territory Tax	03/2022-Union Territory Tax 13-Jul-2022
29.	Rescinds notification No. 45/2017- Union Territory Tax (Rate)	11/2022-Union Territory Tax (Rate)13-Jul-2022
30.	Seeks to amend notification No. 2/2017- Union Territory Tax (Rate)	10/2022-Union Territory Tax (Rate)13-Jul-2022
31.	Seeks to amend notification No. 5/2017- Union Territory Tax (Rate)	09/2022-Union Territory Tax (Rate)13-Jul-2022

Sl. No	Subject	Notifications/Circulars No. Date of Issue
32.	Seeks to amend notification No. 3/2017- Union Territory Tax (Rate)	08/2022-Union Territory Tax (Rate)13-Jul-2022
33.	Seeks to amend notification No. 2/2017- Union Territory Tax (Rate)	07/2022-Union Territory Tax (Rate)13-Jul-2022
34.	Seeks to amend notification No. 1/2017- Union Territory Tax (Rate)	06/2022-Union Territory Tax (Rate)13-Jul-2022
35.	Seeks to amend Notification No 13/2017- Union territory Tax (Rate) dated 28.06.2017.	05/2022-Union Territory Tax (Rate)13-Jul-2022
36.	Seeks to amend Notification No 12/2017- Union territory Tax (Rate) dated 28.06.2017.	04/2022-Union Territory Tax (Rate)13-Jul-2022
37.	Seeks to amend Notification No 11/2017- Union territory Tax (Rate) dated 28.06.2017.	03/2022-Union Territory Tax (Rate)13-Jul-2022
38.	Withdrawal of Circular No. 106/25/2019-GST dated 29.06.2019.	176/08/2022-GST 06-Jul-2022
39.	Manner of filing refund of unutilized ITC on account of export of electricity.	175/07/2022-GST 06-Jul-2022
40.	Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A.	174/06/2022-GST 06-Jul-2022
41.	Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification.	173/05/2022-GST 06-Jul-2022
42.	Clarification on various issue pertaining to GST	172/04/2022-GST 06-Jul-2022

Sl. No	Subject	Notifications/Circulars No. Date of Issue
43.	Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices.	171/03/2022-GST 06-Jul-2022
44.	Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1	170/02/2022-GST 06-Jul-2022
44.	Authorization under clause (c) of sub-rule (4) of rule 96 of the Central Goods and Services Tax Rules, 2017	Order-01/2022-GST 21-Jul-2022

DUE DATES OF GST FOR THE MONTH OF AUGUST 2022

AUGUST

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	GSTR-7, GSTR-8 10	* GSTR-1 11	12	* IFF, (Optional) (July 2022), & GSTR-6 13
Generation of Form GSTR 2B 14	15	16	17	18	19	* GSTR-3B & GSTR-5,5A 20
21	22	23	24	* PMT-06 25	26	27
28	29	30	31			

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).




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