

GST NEWSLETTER

ISSUE 19 | DECEMBER 2022

INDEX



1. Article [pg 2-7]

a. E-Invoice Under GST



2. Case Laws [pg 8-10]

a. Bimal Kothari v. Assistant Commissioner (2022) (145 Taxmann 86) (Delhi)

b. Cost Of The Diesel for Providing DG Set Rental Service Attracts 18% GST : Uttarakhand AAR

c. 18% GST Payable On Manufacturing Of Alcohol For Human Consumption By Way Of Job Work : Andhra Pradesh High Court



3. Notifications and Circulars [pg 11]



4. Due Dates [pg 11]

**LEADING FINANCIAL
ADVISORY AND BUSINESS
CONSULTING FIRM**

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.

**GST Newsletter:
Compiled And Edited By**

INCORP INDIRECT TAX DIVISION

COMPILED BY

ARTICLE - VARSHA YADAV
CASE LAWS - CA MEET THAKKAR,
SHIVANGI PANDEY
NOTIFICATIONS - SHIVANGI PANDEY

EDITED BY
CA PRASANNA KS

ARTICLE

E-Invoice Under GST

Introduction

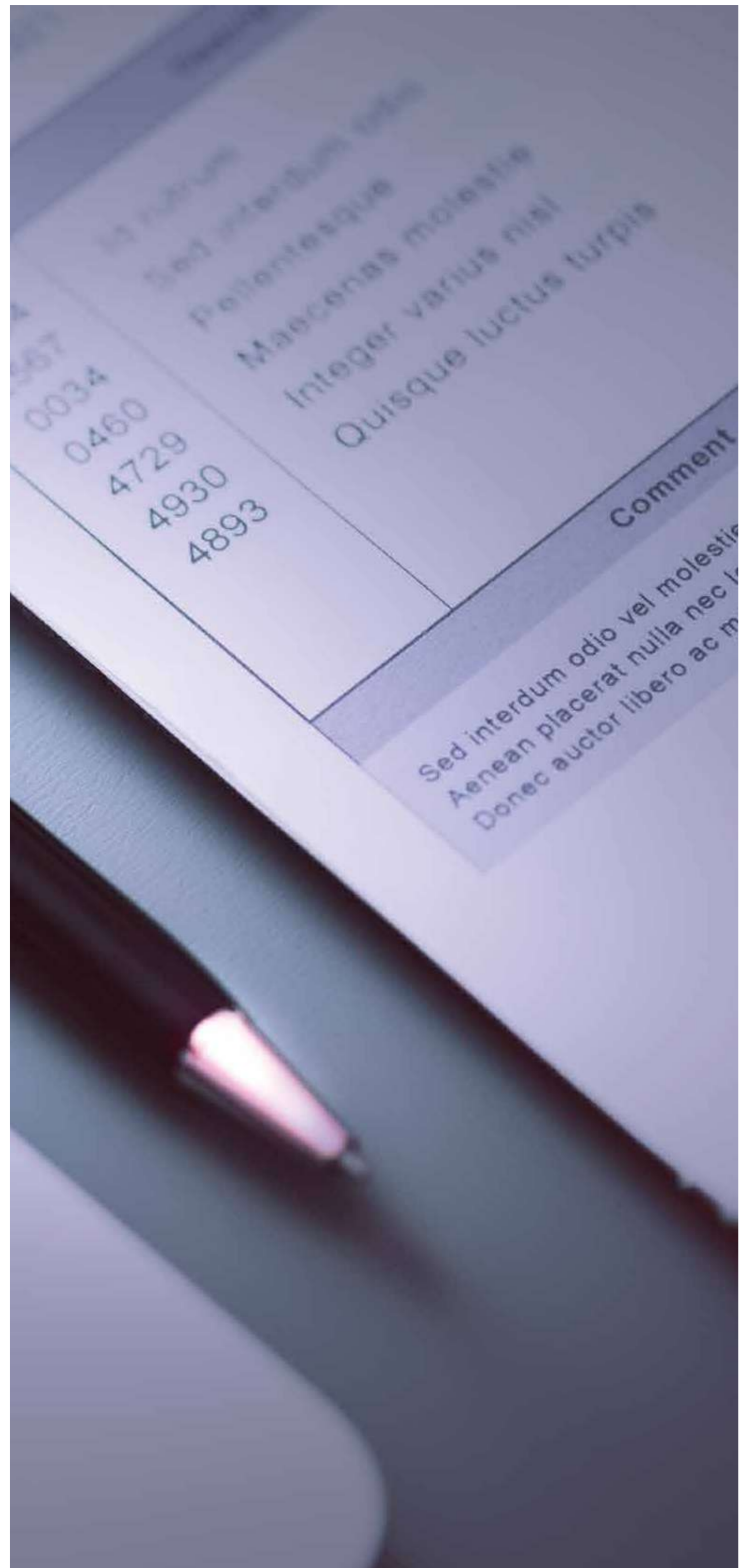
The E-Invoicing system in GST is regarded as the digital invoice generated for the supply of goods and services by a GST-registered person on the E-Invoicing portal provided by the government. The aforesaid concept of generation of E-invoice in GST has been introduced to reduce the evasion of GST.

More than 50 countries are following the concept of E-Invoicing for the last few decades. The standard of E-Invoicing was approved by GST Council in its 37th meeting held on 20th September 2019. E-Invoicing was to be implemented in a phased manner starting from 1st January 2020 but the GST Council in its 39th council meeting held on 14th March 2020, recommended the new date as 1st October 2020 for its implementation for a certain category of taxpayers.

✔ What Is An E-Invoice?

Electronic Invoicing is an electronic authentication mechanism under GST. Under this system, all the B2B invoices generated by a business should be authenticated on the GSTN portal electronically. Thereafter, the Invoice Registration Portal (IRP) will issue a unique identification number for every invoice called Invoice Reference Number (IRN) and Quick Reference (QR) Code.

In simple words, any invoice which carries IRN and QR Code shall be considered to be E-Invoice.






✔ What Is An Invoice Reference Number (IRN)?


The Invoice Reference Number (IRN) is a 64-digit alphanumeric number to uniquely identify each B2B Invoice issued. It is a unique number allotted by the government to tag and identify every valid e- invoice generated in India.

- IRN is 64 Characters.
- This QR Code will enable quick view, validation, and access of the invoice from the GST system from handheld devices by the users.
- IRN is a unique number in the GST system, irrespective of the taxpayer, financial year, and document type.
- IRN is generated using a computer algorithm and is a hash of Supplier GSTIN + Financial Year + Doc Type + Doc Number.
- The document types are INV for Invoices, CRN for Credit Notes, and DBN for Debit Notes.

✔ What Are The Contents Of The E-Invoice

For the purposes of e- invoicing following particulars are required to be uploaded in Invoice Registration Portal (IRP)-

- Details of recipient
 - Details of consignee
 - GSTIN or UIN, if available
 - Name
 - Address
 - State (Name and code)
 - Type of supply -
 - B2B supply, B2Csupply
 - Attracts Reverse Charge
 - Attracts TCS Attracts TDS
 - Export
 - Supplies made to SEZ
 - Deemed Export
 - Description of goods HSN
 - Quantity
- 

- 
- Unit Price per unit
 - Total Value
 - Discount
 - Taxable Value
 - CGST/ SGST/UTGST/ IGST
 - Total Invoice value (in figures and words)

✔ **Time Limit For Generating An E-Invoice**

There has been no time limit prescribed for the authentication of invoices. Any invoice issued by a person on whom provisions of e-invoicing are applicable other than an e-invoice is invalid. Further, if the supply involves the movement of goods and the E-waybill is not accompanied by E-invoice, then the goods may be confiscated. **Thus, the e-invoice must be generated as per the rules for Time of Supply as follows:-**

(a) In the case of Goods

- a. On or before removal of goods for supply where the supply involves the movement of goods; or
- b. Making available goods to the recipient, in any other case,

(b) In the case of services, the tax invoice can be issued within 30 days from the date of completion of the supply of service. The service provider, who is an insurer/banking company/financial institution or NBFC, has a time limit of 45 days instead of 30 days

✔ **Modification/ Cancellation Of E-Invoice**

Correction or modification of any e-invoice is **not allowed**. Therefore the E-invoice needs to be canceled in case a taxpayer wishes to modify any data already mentioned within 24 hours and generate a new e-invoice.

✔ **Where To Generate Of E-Invoice**

Specified registered persons (on whom e- invoicing is applicable) shall upload information relating to transactions on the Invoice Registration Portal (IRP). Then IRP generates and returns a unique Invoice Reference Number (IRN), digitally signed e-invoice and QR code to the user. Once generated, the details relating to that shall be auto-populated in the GSTR-1 of the taxpayer. After the generation of the E-invoice, a simultaneously e-way bill can also be generated based on the information uploaded on IRP.

✔ **Applicability**

E-invoicing is being implemented in a phased manner starting from 1st October 2020. The applicability of E-invoicing to different taxpayers is as follows:

Effective Date	Aggregate Turnover In Any Previous Financial Year From 01-07-2017
from 01.10.2020	Rs.500 crores and above
from 01.01.2021	Rs.100 crores and above
from 01.04.2021	Rs.50 crores and above
from 01.04.2022	Rs.20 crores and above
from 01.10.2022	Rs.10 crores and above
From 01.01.2023	Rs.5 crores and above (Notification not issued. It is proposed as per News in Economic Times)

E-invoicing is applicable on the following documents:

- B2B Tax invoices
- B2B Debit Notes
- B2B Credit Notes
- SEZ with Payment of Tax
- SEZ without Payment of Tax
- Export with Payment of Tax
- Export without Payment of Tax
- Deemed Exports

E-invoicing is not applicable on the following documents:

- B2C Tax invoices
- Bill of supply
- Delivery challan
- Advance receipt voucher
- Refund voucher



✔ Exemptions

As per Notification No. 13/2020- Central Tax dated 21st March 2020, the following taxpayers are exempted from e-Invoice provisions:

- Insurance Companies
- Banking Companies, including NBFC
- Goods Transport Agency (GTA)
- Passenger Transportation services
- Supplier of services by way of admission to an exhibition of Cinematography Films on Multiplex Screens
- Special Economic zone Units
- A Government department
- A Local Authority

✔ Advantages Of E-Invoicing Under GST For Businesses And Government


The following are some of the advantages of e-invoicing under GST:-

- E-Invoice will reduce the chances of errors and omissions.
- A proper record can be maintained regarding the total sales and purchases of a business, and accordingly, the GST returns will be automatically ready for filling under the GST system.
- With the use of E-Invoice, the reconciliation of data between GST returns and books of accounts can be automated.
- There will be a creation of real-time Invoices starting from the entry on the side of the supplier, which will lead to fastening the processing of the ITC (Input Tax Credit) on the recipient's side.
- Interoperability of E-Invoice is possible between different systems
- The Outward Supplies are auto-populated in GSTR-1, which ultimately helps the taxpayer to file the compliance documents easily.
- There will be a reduction in tax evasion and fraud as E-Invoice needs to be done on a real-time basis every day.
- The menace of fake GST Invoices can be tackled.

✔ Consequences For Non-issuing E-Invoice

If no IRN is mentioned on the invoice, it should be considered as if no Invoice is ever generated.

Section 122(1)(i) of the Act provides a penalty for the non-issue of invoice. A taxable person who supplies any goods or services or both without the issue of any Invoice or issues an incorrect or false Invoice



concerning any such supply shall be liable to pay a penalty of ten thousand rupees in CGST and SGST or an amount equivalent to the tax evaded, whichever is higher.

Non-compliance with the E-Invoicing requirement may also cause the detention of goods under section 129 of the Act.

Further, the recipient of goods or services will not be eligible to avail of the Input tax credit.

Conclusion

E-invoicing regulations aren't straight forward, and certain compliance challenges are also observed with e-invoicing, e.g., if the e-invoice data is not auto-populated in GSTR 1 due to technical issues, then the re-uploading of the same can be a tedious and time-consuming task. Since the concept of e-invoicing is completely based on IT infrastructure, technology-related challenges are inevitable. Therefore, businesses must keep a close watch on the recent developments, challenges & practical insights on e-invoicing-related features.

Acknowledging the rules and facts mentioned above, it can be concluded that in the process of advancement towards a digital economy of India, E-Invoicing will definitely play a greater role. To curb tax evasion and increase the government revenue from tax collection will be ensured. This mechanism probably will positively affect the efficiency of businesses by reducing data entry errors and omissions. This will also help to maintain transparency and accuracy in every transaction between the supplier and the recipient of goods or services.

CASE LAWS

Bimal Kothari v. Assistant Commissioner (2022) (145 Taxmann 86) (Delhi)

Facts Of The Case

- Registration certificate was cancelled on ground that business was not being carried out from registered place of business after carrying out physical verification of place of business
- Proper Officer in terms of Rule 25 failed to issue notice to assessee mandating his presence at time of verification
- Verification report generated after carrying out physical verification was not uploaded on common portal in Form GST REG-30 within 15 days from date of such verification

Provision Of Law

Rule 25 of 2017 Rules reads as follows :

“25. Physical verification of business premises in certain cases.- ***Where the proper officer is satisfied that the physical verification of the place of business of a person is required*** due to failure of Aadhaar authentication or due to not opting for Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the ***verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30*** on the common portal within a period of fifteen working days following the date of such verification.”

Judgement

The Hon'ble Judge relying on the provision and judgements passed the order stating that the registration of the assessee was restored and the assessee was given eight weeks period to upload the returns for the period during which its registration stood cancelled.



Cost Of The Diesel For Providing DG Set Rental Service Attracts 18% GST: Uttarakhand AAR

Tara Genset Engineers Regd - Uttarakhand Advanced Ruling – Ruling No. 11/2022-23

Facts Of The Case

The applicant is a partnership firm in the business of renting DG sets to various customers in different districts of Uttarakhand on a hire basis for rent with reimbursement of diesel costs on the usage of the DG sets.

The applicant has sought an AR on “GST applicability on the cost of the diesel incurred for running a DG set in the course of providing a DG rental service.”

Provision Of Law

The issue is of the valuation of the supply, hence Section 15 of the GST Act, 2017/ Uttarakhand GST ACT, 2017 shall be applicable herein – “The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply”.

Ruling Of AAR

The Uttarakhand Authority of Advance Ruling (AAR) has held that GST @ 18% is applicable on the cost of the diesel incurred for running DG set in the course of providing DG Rental Service as per Section 15 of the Central GST Act, 2017/ Uttarakhand GST Act, 2017.

18% GST Payable On Manufacturing Of Alcohol For Human Consumption By Way Of Job Work : Andhra Pradesh High Court

Tara Genset Engineers Regd - Uttarakhand Advanced Ruling – Ruling No. 11/2022-23

Facts Of The Case

The petitioner is a manufacturer of Indian-made foreign liquor, having a distillery and purchases extra-neutral alcohol from various distilleries, food flavours, special spirits, and caramel from registered dealers situated within the state and outside.

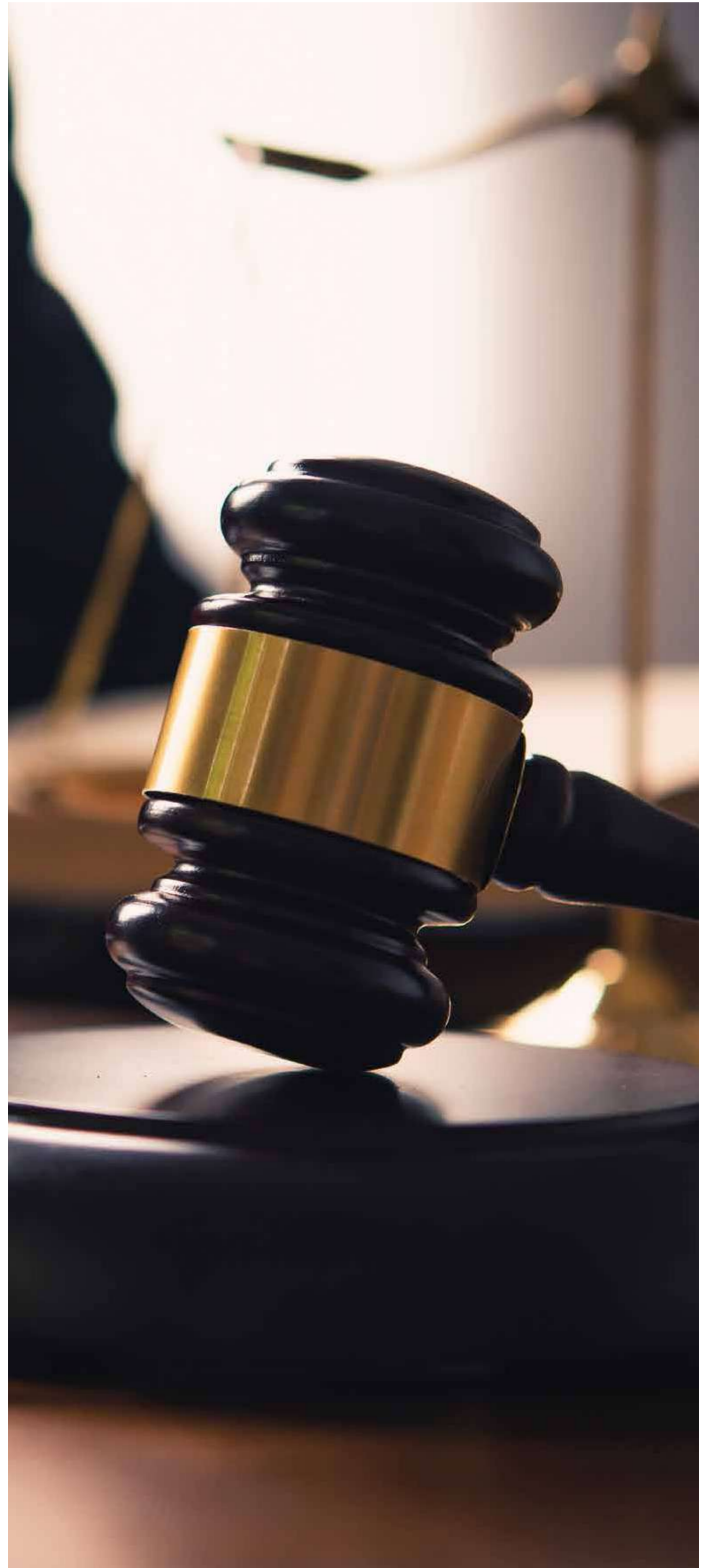
The petitioner challenged the GST and penalty levy on the grounds that the job work charges associated with the manufacture of alcoholic liquor at 18% rather than 5% are illegal and unconstitutional.

Provision Of Law

“Alcohol for human consumption” does not fall under Chapter 1 to 22 of the 1st Schedule of the Customer Tariff Act, 1975 and Notification no. 06/2021 dated 30.09.2021 applies herein.

Judgement

The Andhra Pradesh High Court relied on the decision of the Supreme Court in the case of Collector of Central Excise vs. Parle Exports Pvt. Ltd., and has held that 18% GST Payable On Manufacturing Of Alcohol For Human Consumption By Way Of Job Work and dismissed the Writ Petition.



NOTIFICATIONS AND CIRCULARS FOR THE MONTH OF NOVEMBER 2022

✓ Two Central Tax Notifications - [Click here](#)

Sl. No	Subject	Notifications/Circulars No. Date of Issue
1.	Seeks to make fourth amendment (2022) to CGST Rules with effect from 01.12.2022	24/2022 - Central Tax dated 23.11.2022
2.	Seeks to empower the Competition Commission of India to handle anti-profiteering cases under CGST Act, 2017 with effect from 01.12.2022.	23/2022 - Central Tax dated 23.11.2022

DUE DATES OF GST FOR THE MONTH OF DECEMBER 2022

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, GSTR-6 13	14	15	16	17
18	19	* GSTR-3B & GSTR-5/5A 20	21	* PMT-06 GSTR-3B 22	23	* PMT-06 GSTR-3B 24
25	26	27	38	29	30	* GSTR-9 GSTR-9C 31

* Monthly returns for taxpayers with Annual Turnover more than Rs. 1.5 Crores and above or Taxpayer who has opted Monthly return option.

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

* GSTR 9 of FY 2021-22 for taxpayers whose aggregate annual turnover of FY 2021-22 exceeds Rs. 2 Crores, GSTR 9C of FY 2021-22 for taxpayers whose aggregate annual turnover of FY 2021-22 exceeds Rs. 5 Crores.



CONTACT US

Mumbai Address

2nd Floor, Gita Building,
Sion Circle, Sion (East),
Mumbai – 400022

Bangalore Address

No.8, 3rd Floor,
VK COMMERCE, 3rd Main
Rajajinagar 6th Block, Opp.
IT Park, Bangalore - 560010

 +91 7738066622

 info@incorpadvisory.in

 www.incorpadvisory.in

Disclaimer :

The conclusions reached and views expressed in the Newsletter are matters of opinion based on our understanding of the facts, existing and anticipated tax laws and existing and anticipated rules. There can be no assurance that the tax authorities' or regulators may not take a position contrary to our views. Further, the content of this newsletter should not be used as a supporting to frame any opinions. All queries and clarifications on the content stated in this newsletter should be directed to InCorp Advisory Pvt. Ltd. through phone or email.

The information cited in this newsletter has been drawn from various sources & every effort has been made to keep the information cited in this newsletter error free. InCorp Advisory Pvt. Ltd.

InCorp Advisory Pvt. Ltd. does not take any responsibility for typographical or clerical errors which may have occurred while compiling this newsletter.