

# GST NEWSLETTER

ISSUE 22 | APRIL 2023

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**LEADING FINANCIAL  
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## ARTICLE

# Refund Of Integrated Tax On Zero Rated Supply

The Goods and Services Tax (“GST”) was implemented in India in 2017 as a Destination-based consumption tax. Under the GST framework, the concept of zero-rated supply is of paramount importance, particularly for businesses involved in exporting and supplying to Special Economic Zones (“SEZs”). The export of goods and services has always played a vital role in driving economic growth and development, and the zero-rated supply provisions under GST provide a significant impetus to Indian exporters by enabling them to compete in the global marketplace.

In this article, we will examine the provision of Refund of Integrated Tax on zero-rated supplies of goods and services to SEZs under the GST Law.

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## ✔ What Is Zero Rated Supply?

According to Section 2(23) of the IGST Act, 2017, "zero - rated supply" shall have the meaning assigned to it in Section 16 of the IGST Act, 2017. As per Section 16(1) of the IGST Act, 2017, "Zero rated supply" means any of the following supplies of goods or services or both, namely -

- a. export of goods or services or both; or
- b. supply of goods or services or both for authorized operations to a Special Economic Zone developer or a Special Economic Zone unit.

In essence, any supply of goods or services or both that are exported or supplied to SEZs are considered zero-rated supplies under the GST framework. Zero rating implies that the entire value chain of the supply is exempt from taxation, including both input and output sides. This is distinct from exempted supplies, where only the output side is exempt from tax while tax is still charged on the input side.

## ✔ What Are The Refund Provisions For Zero-Rated Supply Under GST Law?

As discussed previously, the purpose of zero-rating is to eliminate taxation throughout the entire chain of goods or services supply. This is accomplished through the provisions laid down in Section 16(3) of the IGST Act. As per this section, a registered individual who makes a zero-rated supply is entitled to receive a refund as per the provisions of Section 54 of the CGST Act, 2017. There are two options available for claiming this refund, as follows:

Option (a) provides for the supply of goods or services or both under a Bond or Letter of Undertaking, subject to the conditions, safeguards, and procedures prescribed by law, **without the payment of Integrated Tax ("IGST")**. In this case, the registered individual may claim a refund of any unutilized Input Tax Credit of Central tax ("CGST"), State tax ("SGST")/Union territory tax ("UTGST"), and Integrated tax ("IGST").

Option (b), on the other hand, allows for the supply of goods or services or both, subject to the prescribed conditions, safeguards, and procedures, **with the payment of Integrated Tax**. In this scenario, the registered individual may claim a refund of the tax so paid.

## ✔ How Is The Amount Of The Refund Of Input Tax Credit (ITC) Calculated For Option (a)?

A person who wishes to claim a refund of ITC must file an application before the expiry of two years from the "relevant date" as provided in the Explanation to Section 54 of the CGST/SGST Act. Rule 89(4) of the CGST Rules lays down the formula for calculating the refund of ITC in the case of exports made under bond/LUT.



The refund amount is calculated using the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services}) \times \text{Net ITC}}{\text{Adjusted Total Turnover}}$$


### ✔ **What Are The Documents Required For Refund Of ITC?**


The refund application process in relation to the Input Tax Credit (ITC) necessitates the submission of several important documents to the GST authorities. The following is an overview of the documents required:

- Proof of payment made in respect of input invoices.
- A reconciliation statement of input invoices and bank statements.
- A reconciliation statement of export invoices and Bank Realization Certificates or Foreign Inward Remittance Certificates.
- A copy of the shipping bills and Electronic Goods Manifest (EGM) in the event of goods being exported.
- A reconciliation statement of invoices and shipping bills and Electronic Goods Manifest (EGM) for goods export.
- A declaration stating that no refund claim has been filed with the State Authorities.
- A declaration that no prosecution has been initiated as specified in Circular and CGST Rules.
- A copy of the GSTR 3B for the relevant month.
- A copy of the GSTR 1 for the relevant period.
- The printout of the Electronic Ledger details specifying the debit entry of the refund claim for the relevant period.
- Statement 3A (Rule 89(4)) as per Form RFD-01A not submitted.
- A copy of the Letter of Undertaking (LUT) certificate.
- A declaration to refund any erroneous refund sanctioned on demand.
- A declaration attesting to the genuineness of the export price.
- A declaration that no drawback of GST has been claimed.

### ✔ **Refund Of Taxes Paid Under Option (b)**

As previously mentioned, the second type of refund concerns integrated tax payments related to zero-rated supplies made by suppliers who opt to export and seek a refund of the tax they paid. This category includes two sub-categories of suppliers:



- 
- i. exporters of goods and
  - ii. service exporters, as well as those who make supplies to SEZ.

Let us discuss them in detail -

### **(i) Exporters Of Goods**

In accordance with Rule 96 of the CGST Rules, 2017, the export of goods as zero-rated supplies is subject to certain provisions. Exporters are not required to file a separate refund claim for the Integrated Tax (IGST) paid on exported goods. Instead, the shipping bill submitted by the exporter is considered as the refund application. However, the application for refund is only deemed to have been filed if the person responsible for the exported goods files an export manifest or report that includes the shipping bill number and date. In addition, the exporter must submit a valid return in either FORM GSTR-3 or FORM GSTR-3B. Therefore, in this particular scenario, there is no need for a typical refund application in GST RFD-01.


Once the shipping bill and Export General Manifest (EGM) have been filed and a valid return submitted, the application for refund shall be considered to have been filed. The department will then process the refund. It is important to note that if there is any discrepancy in the details provided in the shipping bill and the GST return filed, the application for refund will be denied. If this occurs, the exporter must pay a penalty of Rs.1000/-, and upon payment of such penalty, the refund will be processed.

### **(ii) Service Exporters And Persons Making Supplies To Sez**

Within this category also, suppliers have the option to pay Integrated Goods and Services Tax ("IGST") upfront and subsequently file a refund claim for the IGST paid. To do so, the supplier must submit a refund claim in **FORM GST RFD-01** through the common portal, following the provisions of Rule 89 of the CGST Rules, 2017. Service exporters are required to furnish a statement that includes invoice numbers and dates, as well as the appropriate Bank Realization Certificates or Foreign Inward Remittance Certificates, along with their refund claim.

If a refund is requested due to supplies made to a Special Economic Zone (SEZ), the Domestic Tariff Area (DTA) supplier is responsible for submitting the refund claim. According to the second provision of Rule 89, the supplier of goods and/or services must file the refund claim after the goods and/or services have been fully admitted into the SEZ for authorized operations, as confirmed by the specified officer of the zone. Therefore, it is a prerequisite for the DTA supplier to provide evidence of receipt of goods or services, as demonstrated by the specified officer of the zone, in order to file a refund claim.

When submitting a refund claim for supplies made to an SEZ unit/developer, the following documents must be provided:

- 
- A statement that includes the number and date of invoices as specified in Rule 46, along with evidence regarding the endorsement stated in the second proviso to sub-rule (1) in the case of the supply of goods made to an SEZ unit or an SEZ developer.
  - A statement that includes the number and date of invoices, evidence regarding the endorsement specified in the second proviso to sub-rule (1), and details of payment, along with proof thereof, made by the recipient to the supplier for authorized operations as defined under the Special Economic Zone Act, 2005. This is necessary in cases where the refund is related to the supply of services made to an SEZ unit or an SEZ developer.
  - A declaration indicating that the SEZ unit or the SEZ developer has not availed of the input tax credit of the tax paid by the supplier of goods or services made to an SEZ unit or an SEZ developer.

### ✔ **What Are The Common Errors In Processing Of Refund Claims For IGST?**

The processing of refund claims of IGST by the Customs authorities has been observed to contain several common errors, including -

- SB001: Invalid shipping Details
- SB002: EGM not filed
- SB003: Invalid GSTN ID
- SB004: GSTR3 already filed
- SB005: Invalid Invoice number
- SB006: Gateway EGM not filed
- Validation of bank account by PFMS (Public Financial Management System)



## Conclusion

Zero-rated supplies are a crucial component of India's efforts to promote exports and support its Special Economic Zones (SEZs). However, businesses engaged in these activities face significant challenges in complying with the necessary regulations and documentation requirements. Failure to do so can result in delays, penalties, and loss of benefits.

Despite these challenges, the benefits of zero-rated supplies for businesses cannot be overstated. They can enjoy exemptions from the Goods and Services Tax (GST) and claim Input Tax Credit refunds, making them more competitive in the global market. Additionally, the boost to export-oriented industries has a positive impact on India's economy as a whole.

In order to reap these benefits, it is crucial for businesses to stay up-to-date with the latest regulations and requirements for zero-rated supplies. While this can be a daunting task, seeking the assistance of tax professionals and investing in advanced technology can help streamline the compliance process and ensure that businesses remain in good standing with the government.

Overall, zero-rated supplies are a vital tool for businesses looking to expand their export operations and improve their competitive edge. By navigating the compliance challenges, businesses can unlock significant benefits and help drive India's economic growth.

## CASE LAWS

# Whether Retaining Of Pure Gold In Job-work Can Be Considered As Supply And Its Valuation

Aabhushan Jewellers Pvt. Ltd, In re – West Bengal AAR dated 09-02-2023

## Facts Of The Case

The applicant, a job worker, has received an order from a registered person to manufacture gold ornaments. The principal has provided 1000 grams of pure gold for manufacturing the ornaments and allowed a provision for wastage of 40 grams, which is industry practice. The final weight of gold ornaments would be 960 grams. The applicant has subcontract this job to another job worker, who would be allowed to waste 30 grams of pure gold, leaving 10 grams of pure gold with the applicant.

The applicant sought an advance ruling on the following:

- Whether the 10 grams of pure gold left with the applicant would be liable to GST
- If yes then what be Time and Value of supply
- GST rate to be charged – 3% under HSN 7108/7113 or 5% under SAC 9988

## Provision Of The Law

The Government of India, Ministry of Commerce and Industry, Department of Commerce, Director General of Foreign Trade has prescribed the Wastage Norms for the Gems and Jewellery Sector in which Normal loss of gold is categorized between 0.2% to 2.5%.


As per Sec 2(38)(a) of the GST Act, "**Consideration**" is defined as any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.

Further, as per Sec 15(1) of the GST Act, "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

In the present case, a part of gold is retained by the applicant even before the gold is sent for being processed, which implies that it cannot be treated as "wastage or normal" loss.





Further, the principal has allowed the applicant to retain 4% gold, which is beyond normal wastage norm limit and thereby it is considered as part of the value in the form of non-monetary consideration.

The value of the supply thus shall be determined under Valuation Rule 27 of the CGST/WBGST Rules, 2017 and time of supply would be determined under section 13(2) of the GST Act.

Further, the value of 10 gm of gold shall be a part of value of job work services and accordingly taxable @ 5%.

## Whether Sugarcane Juice Is An Agricultural Produce

M/s. Gobind Sugar Mills Ltd. AAR UP ADRG-19/2023 dated 27-01-2023

### Facts Of The Case

The Applicant M/s. Gobind Sugar Mills Ltd. manufactured Sugar, Molasses and Ethanol from Sugarcane and pays GST on its final products as per the GST norms. Now it wants to directly sell the sugarcane juice to the distilleries. The applicant argues as their only raw material is sugarcane which is classified as agricultural produce, it will also attract Nil rate of GST.


The applicant has sought clarification on:

- Classification of sugarcane juice
- Rate of GST applicable on Sugarcane Juice
- Applicability of notification which affects the rate of tax (If Any)

### Provision Of Law

As per the Notification No. 11/2017 Central Tax (Rate) dated 28.6.2017 “agricultural produce means any produce out of plants and rearing of all life forms of animals, except the rearing of horses, for food, fiber, fuel, raw material or other similar products, on which either no further processing is done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.”

As per the definition given agricultural produce must fulfill three criteria:

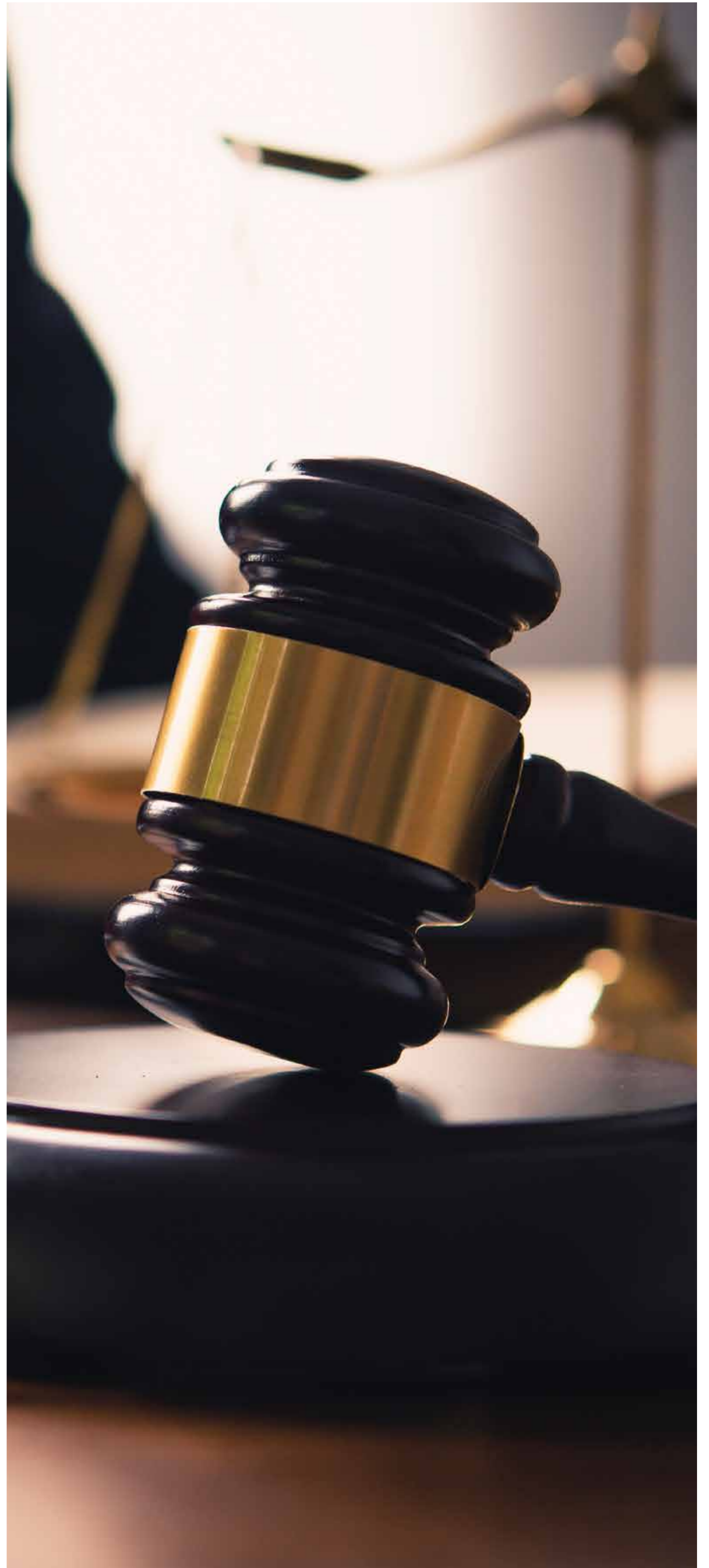
- It must be produced out of cultivating plants and rearing of all life forms of animals
  - No further processing should have been done by cultivator which alter its essential characteristics.
  - The processing done by the cultivator should only be to attain marketability.
- 

## Ruling

In the present case, sugarcane juice is produced by crushing the sugarcane and hence it is not produced by farmers. Also, during the process its original form is altered in such a way that it becomes a raw material for sugar, molasses etc. Since the condition for agricultural produce is not fulfilled by sugarcane juice, therefore it cannot be considered as agricultural produce.

Sugarcane is not the result of flowering plants or seeding so, it does not qualify as fruit. Also, sugarcane fiber cannot be eaten or digested and hence it does not qualify as vegetable either.

Although there is no specific entry for product "Sugarcane juice", it can be interpreted to the most akin product entry i.e. 20098990 covering Preparations of vegetables, fruit, nuts or other parts of plants and thereby taxable at a rate of 6% CGST & 6% SGST or IGST 12% under Notification no. 1/2017 central tax (rate) dated 28/6/2017.



# NOTIFICATIONS AND CIRCULARS FOR THE MONTH OF MARCH 2023

- ✓ Central Tax Notification. - [Click here](#)
- ✓ Circular Notification. - [Click here](#)
- ✓ Compensation Cess Notification. - [Click here](#)
- ✓ Compensation Cess (Rate) Notification. - [Click here](#)

Sl. No	Subject	Notifications/Circulars No. Date of Issue
1.	Extension of limitation under Section 168A of CGST Act	No. 9/2023 – Dated: 31-3-2023 – CGST
2.	Amnesty to GSTR-10 non-filers	No. 8/2023 – Dated: 31-3-2023 – CGST
3.	Rationalisation of late fee for GSTR-9 and Amnesty to GSTR-9 non-filers	No. 7/2023 – Dated: 31-3-2023 – CGST
4.	Amnesty scheme for deemed withdrawal of assessment orders issued under Section 62	No. 6/2023 – Dated: 31-3-2023 – CGST
5.	Seeks to amend Notification No. 27/2022 dated 26.12.2022	No. 5/2023 – Dated: 31-3-2023 – CGST
6.	Amendment in CGST Rules	No. 4/2023 – Dated: 31-3-2023 – CGST
7.	Extension of time limit for application for revocation of cancellation of registration	No. 3/2023 – Dated: 31-3-2023 – CGST
8.	Amnesty to GSTR-4 non-filers	No. 2/2023 – Dated: 31-3-2023 – CGST
9.	Seeks to provide commencement date for Section 163 of the Finance act, 2023	No. 1/2023 – Dated: 31-3-2023 – Compensation Cess
10.	Seeks to further amend notification No.1/2017-Compensation Cess (Rate), dated 28th June, 2017	No. 2/2023 – Dated: 31-3-2023 – Compensation Cess (Rate)
11.	Clarification regarding GST rate and classification of 'Rab' based on the recommendation of the GST Council in its 49th meeting held on 18th February 2023 –reg	Circular No. 191/03/2023 – Dated: 27-3-2023 - CGST

# DUE DATES OF GST FOR THE MONTH OF APRIL 2023

## APRIL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	GSTR-7, GSTR-8	* GSTR-1		* GSTR-1, GSTR-6 * IFF (Optional)		
	10	11	12	13	14	15
16		CMP-08		* GSTR-3B GSTR-5 GSTR-5A		* GSTR-3B (G-1)
	17	18	19	20	21	22
23	* GSTR-3B (G-2)				GSTR-11	
	24	25	26	27	28	29
30						

2023

- \* Monthly return for taxpayers with Annual Turnover more than 1.5 Crore or Taxpayer who has opted Monthly return option.
- \* Monthly return for taxpayers with Annual Turnover up to 1.5 Crore or Taxpayer who has opted Quarterly return option (October 2022- December 2022).
- \* Quarterly returns for taxpayers with Annual Turnover less than Rs. 5 Crores and opted for quarterly return monthly payment option (QRMP).
- \* Monthly return for taxpayers with Annual Turnover of up to or more than INR 5cr in Previous FY Monthly Filing – December 2022
- \* Quarterly (October 2022- December 2022)



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