

MONTHLY NEWSLETTER

# GST TRACKER

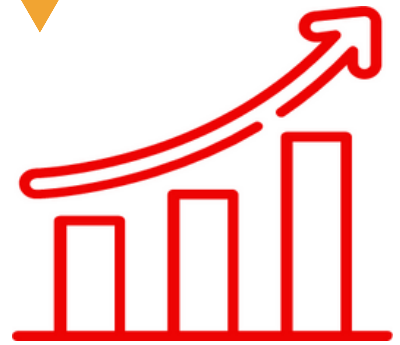
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# DATA



Business



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# Case Law Corner



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**Hon'ble Gujarat High Court condoned the delay in filing of appeal beyond statutory time period regarding case of mismatch between GSTR 3B & GSTR 2A**

Particulars	Details
Name of Petitioner	Kishore Projects Private Limited
Name of Respondent	State of Gujarat
Authority	Gujarat High Court
Date of Judgement	22.12.2022
Appeal No.	R/Special Civil Application No. 25604 of 2022

## Brief Facts of the Case

The petitioner is in the business of Construction, Civil Engineering and is registered as a dealer under the GGST/CGST Act. The issue concerns the year 2019-2020. There was a mismatch between GSTR 3B and GSTR 2A. This was due to non-filing of the returns by the suppliers of the goods from whom he purchased the goods during the period of 2019-20 to be used in its projects and the suppliers issued invoices bearing GGST and CGST Act. He made payments through the bank of those invoices. The STO had issued the notice for return scrutiny under section 61 of the GST Act, on the ground that he has claimed excess ITC than the amount reflected in form GSTR 2A. He filed online Reply on 08/12/2021 in form GST ASMT-11 against the Notice issued in form ASMT-10 on the GSTN portal, pointing out that it was due to non-filing of return by the parties, from whom, purchases have been made. Intimation was given on 31/12/2021 under section 73 of the GST Act, 2017 to the petitioner of the wrong claiming of ITC. **The order dated 07/04/2022 was passed under Section 73 of the Act for mismatch of ITC between GSTR 2A vs GSTR 3B.** The petitioner could not file the appeal within three months under section 107 of the Act, as **his mother had passed away in January, 2022 and sister was suffering from cancer.** Only after provisional attachment order came to be passed in the month of October, 2022 that he has no other alternative but to rush this court under Article 226 of the Constitution of India.

## Contention of the Petitioner

The order dated 07/04/2022 is wholly without jurisdiction, illegal and in violations of the provisions of law. The fact is that suppliers had not filed the returns and hence in GSTR 2A certain bills are not reflected but the entire responsibility of payment of tax is settled on the petitioner. The decision of **Union of India vs. Bharti Airtel Ltd. & Ors.** reported in (2022) 4 SCC 328 says that the Form GSTR 2A is only a facilitator for taking any firm decision while doing the self-assessment. He requires to go back to the officer concerned for him to present his case and because of limitation of the Act is unable to so do it.

## Findings and Decision of the Court

Since the petitioner has expressed his desire to go back to the appellate authority for his matter to be considered on merits. Considering the decision of the Hon'ble Apex Court rendered in the case of **Union of India Vs. Bharti Airtel Ltd. & Ors.** reported in (2022) 4 SCC 328, where the Hon'ble Apex Court has held that **Form GSTR-2A is only a facilitator for taking an informed decision while doing self-assessment and also bearing in mind the personal circumstances of the petitioner, this court allowed the petitioner to go to the appellate authority, which shall without taking an objection with regard to the limitation, decide the matter on merits.** An amount of pre-deposit i.e. Rs.2,02,245/- be deposited by the petitioner within a period of two weeks. Once that amount is deposited, he shall be entitled to make a request for the release of his bank account, before the appellate authority.

# GSTN Updates & Notifications Corner

## GSTN Updates December 2022

Advisory regarding extension of due date for furnishing form GSTR-1 for certain districts of Tamil Nadu

Source: [www.gst.gov.in](http://www.gst.gov.in)

## Notifications/Circulars/Orders issued in the month of December 2022

### Central Tax Notifications December 2022

No.	Date	Subject
25/2022	13.12.2022	Seeks to extend the due date for furnishing FORM GSTR-1 for November, 2022 for registered persons whose principal place of business is in certain districts of Tamil Nadu.
26/2022	26.12.2022	Seeks to make fifth amendment (2022) to CGST Rules
27/2022	26.12.2022	Notification under sub-rule (4B) of rule 8 of CGST Rules, 2017



## Central Tax (Rate) Notification December 2022

No.	Date	Subject
12/2022	30.12.2022	Seeks to amend notification No. 1/2017- Central Tax (Rate)
13/2022	30.12.2022	Seeks to amend notification No. 2/2017- Central Tax (Rate)
14/2022	30.12.2022	Seeks to amend notification No. 4/2017- Central Tax (Rate)
15/2022	30.12.2022	Seeks to amend notification No. 12/2017- Central Tax (Rate)

## Integrated Tax Notification December 2022

No Integrated Tax Notification was issued in the month of December 2022

## Integrated Tax (Rate) Notification December 2022

No.	Date	Subject
12/2022	30.12.2022	Seeks to amend notification No. 1/2017- Integrated Tax (Rate)
13/2022	30.12.2022	Seeks to amend notification No. 2/2017- Integrated Tax (Rate)
14/2022	30.12.2022	Seeks to amend notification No. 4/2017- Integrated Tax (Rate)
15/2022	30.12.2022	Seeks to amend notification No. 9/2017- Integrated Tax (Rate)

## Circular issued in the month of December 2022

No.	Date	Subject
183/2022	27.12.2022	Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19
184/2022	27.12.2022	Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017

No.	Date	Subject
185/2022	27.12.2022	Clarification with regard to applicability of provisions of section 75(2) of Central Goods and Services Tax Act, 2017 and its effect on limitation
186/2022	27.12.2022	Clarification on various issue pertaining to GST
187/2022	27.12.2022	Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016
188/2022	27.12.2022	Prescribing manner of filing an application for refund by unregistered persons

## Orders

No order was issued in the month of December 2022

## Removal of Difficulty Orders December 2022

No order was issued in the month of December 2022

Source: [www.cbic.gov.in](http://www.cbic.gov.in)

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## #GST at One Place



ANDHRA PRADESH HIGH COURT

**Refund Rejected, due to  
Limitation Period?**

M/S. VYPLAVI GRANITES  
Vs  
THE DEPUTY COMMISSIONER OF CENTRAL TAX, THE CHIEF  
COMMISSIONER OF CUSTOMS, UNION OF INDIA, GOODS AND  
SERVICE TAX COUNCIL

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ALLAHBAD HIGH COURT

**GST Registration Rejected  
Cost of Rs 15000 imposed on  
erring Officers**

Ranjana Singh  
Vs  
Commissioner Of State Tax And 2 Others

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GST Registration cancelled?  
Gujarat High Court decide case  
in favour of Taxpayer

**MUST  
Watch!**

Agarwal dying and printing works  
Vs  
State of Gujarat and (2)others

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GST AT ONE PLACE

MADRAS HIGH COURT

E way Bill: Goods detained, Movement of Goods  
from Principal Place to additional Place

M/S. SMART ROOFING PRIVATE LIMITED  
Vs  
THE STATE TAX OFFICER (INT) , MADURAI

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