

GST Monthly update - Mar'23

CA VAMSHI KRISHNA II PARTNER II J V N & ASSOCIATES

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Agenda

- Statistics
- Updates in GST portal
- Updates in law/procedures _ 9+1 notification & 1 circular
- Case laws
- Other news

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Statistics

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GST Statistics – Collection for the month Mar'23

➤ GST Collection summary

- ✓ Total GST collection for the month of Mar'23 Rs.1.6L Crores
- ✓ This is the 2nd highest, 1st being Apr'22 with Rs. 1.67L Crores

Tax Heads	Amount (In Crores)	Remarks
CGST	29,546	-
SGST	37,314	-
IGST	82,907	Includes 42,503 Crore collected on imports of goods
CESS	10,355	Includes 960 Crore collected on imports of goods

- ✓ After settlement of IGST with CGST & SGST of 33,408 Cr and 28,187 Cr respectively, total revenue
 - To the Centre 62,954 Cr.
 - To the States 65,501 Cr.
 - Source: Press release by CBIC

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GST Statistics – Mar'22 vs Mar'23

- GST revenues clock 13% growth Year-on-Year i.e.,
 - ✓ Rs. 1.6L Crores in Mar23 compared to 1.4L crores in Mar'22
- The return filing during March 2023 has been highest ever
 - ✓ GSTR-1: 93.2% compared to 83.1% in Mar'22 and
 - ✓ GSTR-3B: 91.4% compared to 84.7%, in Mar'22
- Telangana & top 2 states with highest GST collection and its growth of GST Revenues during March 2023

Rank	State	Mar'22	Mar'23	Growth (%)
1	Maharashtra	20,305	22,695	11.77
2	Karnataka	8,750	10,360	18.4
9	Telangana	4,242	4,804	13.25

Source: Press release by CBIC

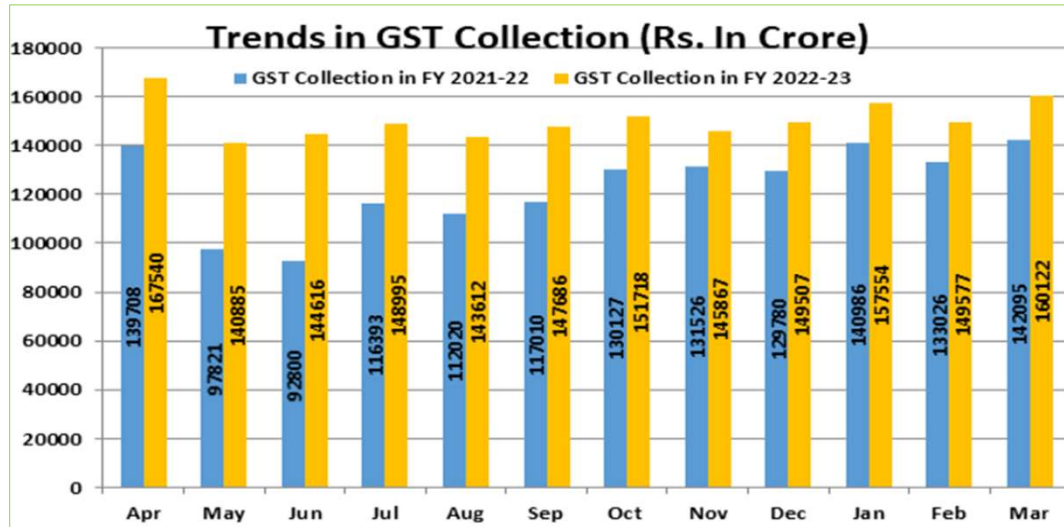
GST Statistics – FY'21-22 vs FY'22-23

- The total gross collection for 2022-23 stands at ₹18.10 lakh crore
- Average gross monthly collection for the full year is ₹1.51 lakh crore
- The gross collection is 22% higher than the same in 21-22



Source: Press release by CBIC

GST Statistics: MOM Trend



Source: Press release by CBIC

GST Statistics : Evasion, Recovery and Arrests

- From Jul'17-Feb'23
- GST Evasion detected: Rs. 3,07,991 Crores
- Recovery/realization made: Rs.1,03,801 Crores
- Number of people arrested: 1,402
- Number of GST offence cases registered: 57,111/-

	All over India	Telangana
Evasion Amount (in Crores)	3,07,991	9,783
Recovery (In Crores)	1,03,801	3,527
Arrest (In numbers)	1,402	69

- Source: Lok Sabha Responses

✓ <https://pqals.nic.in/annex/1711/AU1957.pdf>

Changes in portal

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E-invoice services with private IRPs

GSTN has launched the e-invoice registration services through multiple private IRPs at the recommendation of the GST Council.

The screenshot displays the 'Goods and Services Tax e - Invoice System' portal. The header includes the GST logo, the text 'Goods and Services Tax e - Invoice System', and a 'Login' link. The navigation menu contains: Home, About, Resources, Search/Enable, Help/Grievance Portal, and Updates. The main content area is titled 'IRP Details' and lists six private IRPs: NIC-1, NIC-2, Cygnet, Clear Tax, Ernst & Young, and IRIS. Each IRP is represented by a logo and a corresponding URL: invoice3.gst.gov.in, invoice4.gst.gov.in, invoice5.gst.gov.in, and invoice6.gst.gov.in. The footer contains copyright information for 2023-24, the date of the last update (28-03-2023), and the developer (GSTN).

Source: News on GST portal on 21-03-23: <https://www.gst.gov.in/newsandupdates/read/573>

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6 digit HSN for e-Invoice

➤ N/no.78/2020-CT-15-10-20: W.e.f. 01-04-2021

AATO of PFY	No.of digits of HSN	Exceptions
Up to Rs. 5 crores	4	Supplies made to unregistered persons
More than Rs. 5 crores	6	NA
Note: For Specified list of Goods, 8 digit HSN is mandatory, irrespective of AATO		

- After a few weeks of time , e-Invoice System will not accept 4-digit HSN codes. The date for blocking e-Invoice generation having HSN code as 4-digits will be intimated shortly in this portal.
- You may verify all your HSN codes in the (<https://einvoice1.gst.gov.in>) portal under Search-->Master-->HSN Codes and also test in the sandbox system (<https://einv-apisandbox.nic.in>).
- Source: News on GST portal on 23-03-23: <https://www.gst.gov.in/newsandupdates/read/576>

Registering as “One Person Company”

- As Sec 2(62) of The Companies Act, 2013 “One Person Company” is defined as a company which has only one person as member.
- Issues have been raised by the persons registering as ‘One Person Company’ while they take GST registration.
- Upon analysis, it has been noticed that the option of choosing One Person Company is not available in form notified by CGST/SGST Acts and hence not available on the GSTN portal also.
- It is advised that in the ‘Part B’ of GST Registration Form ‘REG-01’,
 - ✓ Select the **Constitution of Business as “Others”** (Under ‘Business Details’ tab using dropdown list)
 - ✓ After that **mention “One Person Company” in the text field** and follow the steps for a normal registration application to complete the process.
- Source: News on GST portal on 21-03-23: <https://www.gst.gov.in/newsandupdates/read/574>

Registering as “One Person Company”

Application Type	Due Date to Complete	Last Modified	Profile
New Registration	08/03/2022	22/02/2022	0%

Business Details

Promoter / Partners

Authorized Signatory

Authorized Representative

Principal Place of Business

Additional Places of Business

Goods and Services

State Specific Information

Aadhaar Authentication

Verification

* Indicates mandatory fields

Details of your Business

Legal Name of the Business ANGAD JASBIRSINGH ARORA	Permanent Account Number (PAN) BEFPC0077R	Date of Creation of PAN 08/06/2020
Trade Name <input style="width: 90%;" type="text" value="Angad Trade"/>	Constitution of Business (Select Appropriate)* <input style="width: 90%;" type="text" value="Proprietorship"/>	
Additional Trade Name <input style="width: 80%;" type="text" value="Enter Trade Name"/> <input type="button" value="+ ADD"/> <input type="button" value="X CANCEL"/>		
Name of the State Delhi	District* <input style="width: 90%;" type="text" value="Central Delhi"/>	

Are you applying for registration as a casual taxable person? No

Option For Composition No

Transfer of cash ledger balance among GSTINs

- N/n 14/2022_CT_05-Jul-22: Inserted Rule 87 (14) in CGST Rules, 2017
 - ✓ To enable the transfer of cash ledger balance from one GSTIN to another GSTIN with same PAN (i.e., distinct persons as defined u/s 25(4) and 25(5).
 - ✓ Through Form GST PMT-09
- GSTN has enabled the same in the portal
- Navigate to: <http://gst.gov.in> > Dashboard > Services > Ledgers > Electronic Cash Ledger > File GST PMT-09 for transfer of amount (to different GSTIN on same PAN)
- Source: GSTN tweet on 22-03-23: https://twitter.com/Infosys_GSTN/status/1638434470607896578

Transfer of cash ledger balance among GSTINs

- Electronic Cash Ledger
- File GST PMT-09 for transfer of amount(within same GSTIN).
- File GST PMT-09 for transfer of amount(to different GSTIN on same PAN).
- View Filed GST PMT-09

Select transferee GSTIN (on same PAN) *

CASH LEDGER BALANCE

Cash ledger balance-available for transfer

Description	Cash ledger balance				
	Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	Cess (₹)	Total (₹)
Tax	0	5555	555	0	6110
Interest	0	0	0	0	0

Add record

Transfer amount from			Transfer amount to		
Major head	Minor head	Amount available	Major head	Minor head	Amount
<input type="text" value="Select"/>	<input type="text" value="Select"/>	<input type="text"/>	<input type="text" value="Select"/>	Tax	<input type="text" value="0"/>
				Interest	<input type="text" value="0"/>
				Penalty	<input type="text" value="0"/>
				Fee	<input type="text" value="0"/>
				Others	<input type="text" value="0"/>

Law/Procedure

2/23: Late fees rationalisation – GSTR-4

S.No	Year	Original		Reduced/Revised		Conditions
		Late fees	Limit	Late fees	Limit	
GSTR-4 – With liability						
I	2017-18* 2018-19* 2019-20 2020-21	Rs. 50 per day	Rs. 10,000	Rs. 50 per day	Rs. 500	Dt. Of filing of return b/w 1st Apr'23 to 30th Jun'23
II	2021-22	Rs. 50 per day	Rs. 2,000			
III	2022-23 onwards	Rs. 50 per day	Rs. 2,000	NA	NA	NA
GSTR-4 Nil Liability						
I	2017-18 2018-19 2019-20 2020-21	Rs. 20 per day	Rs. 10,000	0	0	Dt. Of filing of return b/w 1st Apr'23 to 30th Jun'23
II	2021-22	Rs. 20 per day	Rs. 500			
III	2022-23 Onwards	Rs. 20 per day	Rs. 500	NA	NA	

7/23: Late fees rationalisation – GSTR-9

S.No	Year	Turnover	Regular		Reduced/Revised		Conditions
			Late fees	Limit	Late fees	Limit	
I	2017-18	Any	Rs. 200 per day	0.5 % of Turnover	Rs. 200 per day	20,000	Dt. Of filing b/w 1st Apr'23 to 30th Jun'23
	2018-19						
	2019-20						
	2020-21						
	2021-22						
II	From FY 2022-23 Onwards	Up to 5Cr	Rs. 200 per day	0.5 % of Turnover	Rs. 50 Per day	0.04% of T/o	No conditions
		>5Cr to 20Cr			Rs. 100 Per day	0.04% of T/o	
		> 20Cr			NA	NA	

8/23: Late fees rationalisation – GSTR-10

Form	Due date	Regular		Reduced/Revised		Conditions
		Late fees	Limit	Late fees	Limit	
GSTR-10 Final return	3M from later of > Dt. of cancellation > Dt. of order	Rs. 200 per day	Rs. 10,000	Rs. 200 per day	Rs. 1,000	Dt. Of filing of return b/w 1st Apr'23 to 30th Jun'23

Ref.: Sec. 45-Due date; Sec 47-Late fee; Rule 81-Prescribing from GSTR-10

3/23: Add.nl time for revocation of cancelled GSTINs

➤ **Eligibility:**

- ✓ Registration has been cancelled u/s 29, on or before 31-12-2022
- ✓ Failed to apply for revocation within the time period specified u/s 30
- ✓ Includes, the appeals rejected on the ground of failure to adhere to the time limit specified u/s 30(1)

➤ **Additional time:**

- ✓ 01-Apr-23 to 30-Jun-23
- ✓ No further extension

➤ **Procedure:**

- ✓ File all returns along with payment of tax, interest & late fee, up to the effective date of cancellation of reg.

4/23: Aadhaar & Biometric authentication for GST reg.n

- N/n_04/2023 – The existing Rule 8(4A) has been substituted as followed:
 - **Rule 8(4A):** Date of submission of application shall be earlier of
 - ✓ The date of Aadhaar authentication, or
 - ✓ 15 days from the submission of the application in Part B of FORM GST REG-01
 - **Proviso to Rule 8(4A):** Mandates to Biometric-based Aadhaar authentication and taking photograph of the applicant for applicants
 - ✓ who has opted for authentication of Aadhaar number and
 - ✓ is identified on the common portal, based on data analysis and risk parameters
 - **Rule 8(4B):**
 - ✓ The Central Government may, on the recommendations of the Council, by notification specify the States or Union territories wherein the proviso to ~~(provisions of)~~ sub-rule 8(4A) shall not apply.
- **These changes shall be deemed to have come into force from 26th Dec'2022.**

5/23: Amendment to N/n_27/2022_26-12-22

- As per Notification No. 027/2022_CT_26-12-2022 –
 - ✓ CGST has notified that the provisions of sub-rule (4A) of rule 8 of shall not apply to any state or UT except the State of Gujarat.
- As per Notification No. 05/2023 –
 - ✓ 27/2022 has been amended to change the reference from Provisions of Rule 8(4A) to Proviso of Rule 8(4A)
- **These change shall be deemed to have come into force from the 26th day of December,2022.**

6/23: Withdrawal of assessment orders u/s 62

➤ **Sec 62: Assessment of non-filers of returns.**

- ✓ If RP fails to furnish the returns U/s 39 or U/s 45, even after the service of a notice U/s 46
- ✓ Proper officer may proceed to assess the tax liability of the said person **to the best of his judgement**
- ✓ If the RP files valid return within 30 days of service of Order,
the order shall be deemed to be with drawn

➤ **N/n 06/2023 CT-31-03-23**: One time extension of 30 days time limit **up to 30-Jun-2023**

➤ **Conditions:**

- ✓ Service of the assessment order issued on or before the 28th day of February, 2023
- ✓ RP shall furnish the said return on or before the 30th day of June 2023;
- ✓ The return shall be accompanied by payment of interest due U/s 50(1) and the late fee U/s 47

9/23: Extension of time limit U/s 73(10)

➤ **Sec 73(10)**: The proper officer shall issue the order U/s 73(9)

- ✓ **within three years from the due date of annual return** for the financial year to which the
 - tax not paid or short paid or
 - input tax credit wrongly availed or utilised relates to or
- ✓ **within three years from the date of erroneous refund**

➤ **13/2022 CT 05-07-2022**:

- ✓ Extends the time limit specified U/s 73(10) for issuance of order U/s 73(9) for
 - recovery of tax not paid or short paid or
 - of input tax credit wrongly availed or utilized,**for FY 2017-18, up to the 30-Sep-2023;**
- ✓ Excludes the period from 01-March-2020 to 28-Feb-2022 for computation of period of limitation
 - U/s 73(10) for recovery of erroneous refund;
 - for filing refund application under section 54 or section 55 of the said Act.

9/23: Extension of time limit U/s 73(10)

➤ **9/23 Extension:** Applicable only for tax not paid or short paid or of input tax credit wrongly availed or utilised but not to the recovery of refund

FY	Previous limit	Extended time limit
FY 2017-18	30-09-2023	31-12-2023
FY 2018-19	31-12-2023	31-03-2024
FY 2019-20	31-03-2024	30-06-2024

Circular 191/03/23_Rab rate

- "Rab" means 'massecuite prepared by concentrating sugarcane juice on open pan furnaces, and includes Rab Galawat and Rab Salawat, but does not include khandsari molasses or lauta gur.
- The GST Council, at its 49th meeting held on 18.02.2023, reduced the GST rate on 'Rab' to 5%, when sold in pre-packaged and labelled form and 'Nil' rate, when sold in other than pre-packaged and labelled form. [Notification No. 03/2023-CT\(R\) dt. 28.02.2023](#) and [Notification No. 04/2023-CT\(R\) dt. 28.02.2023](#) were issued to give effect to these changes w.e.f. 01.03.2023.
- However, it is also to be noted that in the 48th GST Council meeting held on 17.12.2022 it was held that 'Rab' is classifiable under the heading 1702 attracting GST rate of 18%.
- [Circular No. 191/03/2023-GST dt. 27.03.2023](#) has now been issued to clarify that due to the prevailing divergent interpretations and genuine doubts regarding the applicability of GST rate on Rab, the issue for past period shall be regularized on "as is" basis.

01/2023-Compensation Cess

- Notifying the 1st April,2023 as the appointed date for giving effect to Sec 163 of Finance act,2023.
- Sec 163 of Finance act, 163 amends the Schedule to the Goods and Services Tax (Compensation to States) Act, 2017
 - ✓ Changes in rate of Cess for Pan Masala & Tobacco

Case laws

Ernst And Young Limited Vs Additional Commissioner (Appeals)

➤ Facts of the case

- ✓ The petitioner (M/S ERNST AND YOUNG LIMITED - hereafter 'E&Y Limited) is an Indian Branch Office of M/s Ernst & Young Limited, a company incorporated under the laws of United Kingdom.
- ✓ E&Y Limited has entered into service agreements for providing professional consultancy service to various entities of Ernst & Young group (hereafter '**EY Entities**') such as '**EY US**', '**EY Australia**' '**EY New Zealand** and '**EY UK**') on arm's length basis.
- ✓ The petitioner applied for refund of the ITC availed for providing its professional services for the periods December 2017 to March 2020 of amount 93,49,756/- in aggregate
- ✓ The Adjudicating Authority issued show cause notices dated 02.01.2020, 13.04.2020 and 23.04.2021 corresponding to the three refund applications filed by the petitioner
- ✓ The Appellate Authority upheld the decision of the Adjudicating Authority that the services rendered by the petitioner were intermediary services

Ernst And Young Limited Vs Additional Commissioner (Appeals)

- ✓ The only basis for rejecting the appeal was that the actual service exchange happened between EY ltd, UK and the other EY over seas entities.
- ✓ Indian branch of EY ltd has just acted as an intermediary.
- ✓ The term 'intermediary' is defined under Section 2(13) of the IGST Act.
- ✓ "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but **does not include a person who supplies such goods or services or both or securities on his own account;**"
- ✓ Thus, even if it is accepted that the petitioner has rendered services on behalf of a third party, the same would not result in the petitioner falling within the definition of 'intermediary' under Section 2(13) of the IGST Act as it is the actual supplier of the professional services and has not arranged or facilitated the supply from any third party.

Ernst And Young Limited Vs Additional Commissioner (Appeals)

➤ Conclusion:

- ✓ Services rendered by the petitioner are not as an intermediary and therefore, the place of supply of the Services rendered by the petitioner to overseas entities is required to be determined on basis of the location of the recipient of the Services. Since the recipient of the Services is outside India, the professional services rendered by the petitioner would fall within the scope of definition of 'export of services' as defined under Section 2(6) of the IGST Act
- ✓ The petition is, accordingly, allowed. The impugned order as well as the impugned orders-in-original are set aside. The Adjudicating Authority is directed to process the petitioner's refund application as expeditiously as possible.

Ernst And Young Limited Vs Additional Commissioner (Appeals)

➤ Contents of the agreement:

- Ernst & Young US LLP ("EY US") wishes to retain Ernst & Young Limited ("E&Y Limited"), acting through its Indian branch, to provide certain professional services in India, as may be agreed from time to time by the parties (the "Services").
- The Services may be in the nature of, but not limited to, the following activities: (i) assurance and business advisory services; (ii) technical assistance/ advice in relation to expatriate tax compliance services under the tax laws of the United States, including technical review and approval of US income tax returns and other related work products; and knowledge transfer on engagement specific matters to other firms that may be performing professional services for EY US in India.....
- Accordingly, we agree as follows.:
- 1. E&Y Limited shall provide the Services in accordance with all applicable professional standards, as well as all of the requirements imposed upon member firms of Ernst & Young Global Limited in the conduct of professionals services under the "Ernst & Young" name.
- 2 EY US shall pay E&Y Limited an arms' length fee for the Services, provided, that, if it is determined that such fee is not in accordance with the arms' length principles, then the parties shall negotiate and modify it at least annually to reflect an arms' length price.

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- Constitutional Validity of provision of Rule 89(4) (C) of the CGST Rules, as amended vide Para 8 of Notification 16/2020-CT dated 23.03.2020 and Explanation to Rule 93 of the CGST Rule - refund of unutilized input tax credit - zero rated supply of goods
- HELD THAT:-
- The entire concept of refund of unutilized input tax credit relating to zero-rated supply would be obliterated in case the respondents are permitted to put any limitation and condition that takes away petitioner's right to claim refund of all the taxes paid on the domestic purchases used for the purpose of zero-rated supplies. The incentive given to the exporters would lose its meaning and this would cause grave hardship to the exporters, who are earning valuable foreign exchange for the country. It should be noted that exporters would have factored in such incentives in the pricing mechanism when they quote and therefore, the restriction of the same would be highly unreasonable, given the objective of the Government that exports should be zero rated and taxes should not be exported - It is also well settled that if the government perceives that there could be a possibility of abuse of a provision, it should adopt measures to keep a check on the same; however, the law cannot be amended on the premise of distrust.

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- It is also relevant to note that in the GST Council Meeting, it was stated that the FOB value of exports will not be changed, which would mean that there is no doubt about the valuation of the goods; therefore, if there is no doubt about the value of the goods, the artificial restriction of refunds by taking the value of domestic supplies seems irrational. Further, the policy of the Government itself will have to satisfy the test of rationality and must be free from arbitrariness and discrimination.
- In DEPUTY COMMISSIONER OF INCOME TAX & ANR. VERSUS M/S. PEPSI FOODS LTD. (NOW PEPSICO INDIA HOLDINGS PVT. LTD.) [2021 (4) TMI 369 - SUPREME COURT], the Apex Court held that the expression "permissible" policy of taxation would refer to a policy that is constitutionally permissible. If the policy is itself arbitrary and discriminatory, such policy will have to be struck down.
- As rightly contended by the learned Senior counsel for the petitioner, the impugned Rule 89(4)(C) is arbitrary and unreasonable, in as much as the possibility of taking undue benefit by inflating the value of the zero-rated supply of goods, cannot be a ground to amend the Rule, which deserves to be declared invalid on this ground also.
- Thus, the impugned Rule 89(4)(C) of the CGST Rules, 2017 as amended vide Para 8 of the Notification No.16/2020-Central Tax dated 23.03.2020 deserves to be declared ultra vires and invalid and consequently deserves to be quashed - petition allowed.

Other News/Updates

- GST authorities may soon look at income tax returns and MCA filings so as to ensure that entities are correctly discharging their GST tax liability. The data analysis may focus on entities which are not exempt and are required to be registered under GST law and file returns, but not doing so.
- There is no restriction for registration under GST law so as to take registration at their residential address in case of professionals.
- Parliamentary panel suggests to
 - ✓ Prepare list of documents required for Audit to avoid calling tax payers to dept. offices
 - ✓ Increase TDS & TCS base

Thank you
for the Opportunity & Support

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