

GST Update

Weekly Update
04.04.2020

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 28.03.2020. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications, except the provisions related solely to SGST provisions. Similar parallel provisions in State Laws may be referred to as required

Relief Measures in view of COVID-19 outbreak

(Notifications No. 30, 31, 32, 33, 34 all dated 3rd April 2020)

(Circular No. 136/06/2020-GST dated 3rd April 2020)

(Ministry of Finance Press release dated 24th March 2020)

Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020

- An enabling section 168A has been inserted in the CGST Act, 2017 empowering the Government to extend due dates for various compliances inter-alia including statement of outward supplies, filing refund claims, filing appeals, etc. specified, prescribed or notified under the Act, on recommendations of the GST Council.
- The section 168A(1) provides for extending the time limits prescribed in the CGST Act, 2017 in respect of actions which can not be completed or complied with due to force majeure. This power shall also be exercisable retrospectively.
- *Explanation: For the purpose of this section, “force majeure” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provision of this Act.*

Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020

- Last date of furnishing of the Central Excise returns due in March, April and May 2020 extended to 30th June,2020.
- Wherever the last date for filing of appeal, refund applications etc., under the Central Excise is from 20th March to 29th June 2020, the same extended to 30th June 2020.
- Wherever the last date for filing of appeal, refund applications etc., under Customs s from 20th March to 29th June 2020, the same extended to 30th June 2020.
- Wherever the last date for filing of appeal etc., relating to Service Tax is from 20th March to 29th June 2020, the same extended to 30th June 2020
- The date for making payment to avail of the benefit under Sabka Vishwas Legal Dispute Resolution Scheme 2019 extended to 30th June 2020.

Relaxation in opting for composition scheme

- **Notification No. 30/2020 – Central Tax dated 3rd April 2020**
- Taxpayers opting for the Composition Scheme for the financial year 2020-21 allowed to file their option in FORM CMP-02 till 30th June 2020.
- Following proviso inserted in rule 3(3) of CGST Rules, 2017:-
- *“Provided that any registered person who opts to pay tax under section 10 for the financial year 2020-21 shall electronically file an intimation in FORM GST CMP-02, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, on or before 30th day of June, 2020 and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of rule 44 up to the 31st day of July, 2020.”*

Relaxation in application of rule 36(4) of CGST Rules, 2020

- **Notification No. 30/2020 – Central Tax dated 3rd April 2020**
- Application of the condition in rule 36(4) for the months of February 2020 to August 2020 allowed to be applied on cumulative basis.
- In rule 36(4) of CGST Rules, 2017, following proviso inserted-
- *“Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.”*

Relaxation in application of rule 36(4) of CGST Rules, 2020 (Contd)

- **Circular No. 136/06/2020-GST dated 3rd April, 2020**
- **Whether restriction under rule 36(4) of the CGST Rules would apply during the lockdown period?**
- The said condition shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR 3 B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR - 3 B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).

Relaxations in filing of GSTR-3B

- **Notifications No 31/2020 – Central Tax dated 3rd April 2020 (Effective w.e.f 20th March 2020)**
- Relaxations in filing of GSTR-3B for the tax periods of February 2020 to April 2020
- A lower rate of interest of NIL for first 15 days after the due date of filing return in FORM GSTR-3B and @ 9% thereafter is notified for those registered persons having aggregate turnover above Rs. 5 Crore and NIL rate of interest is notified for those registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year, for the tax periods of February 2020 to April 2020. This lower rate of interest shall be subject to condition that due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.

Relaxations in filing of GSTR-3B (Contd)

Class of registered persons	Rate of interest	Tax period	Condition
Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	Nil for first 15 days from the due date, and 9% thereafter	Feb, 2020, March 2020, April, 2020	If return in FORM GSTR-3B is furnished on or before the 24th June, 2020
Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees five crores in the preceding financial year	Nil	February, 2020, March, 2020	If return in FORM GSTR-3B is furnished on or before the 29th June, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 30th June, 2020

Relaxations in filing of GSTR-3B (Contd)

Class of registered persons	Rate of interest	Tax period	Condition
Taxpayers having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year	Nil	February, 2020,	If return in FORM GSTR-3B is furnished on or before the 30th June, 2020
		March 2020,	If return in FORM GSTR-3B is furnished on or before the 3 rd July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 6 th July, 2020

Relaxations in filing of GSTR-3B (Contd)

- **Circular No. 136/06/2020-GST dated 3rd April, 2020**
- **What if a taxpayer does not furnish GSTR-3B before the due dates mentioned in the notification?**
- In case the return for the said months are not furnished on or before the dates mentioned in the notification then interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed.
- In addition, regular late fee shall also be leviable for such delay along with liability for penalty.

Waiver of late fee for delay in furnishing returns in FORM GSTR-3B

- **Notification No. 32/2020- Central Tax, dated 03.04.2020**
- Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing returns in FORM GSTR-3B for the tax periods of February 2020 to April, 2020 provided the return in FORM GSTR-3B by the date as specified in the Notification

Waiver of late fee for delay in furnishing returns in FORM GSTR-3B Contd)

- **Circular No. 136/06/2020-GST dated 3rd April 2020**
- **Whether due date of furnishing FORM GSTR-3B for the months of February, March and April 2020 has been extended ?**
- The due dates for furnishing FORM GSTR-3B for the months of February, March and April 2020 has not been extended at all.
- However, as per notification No. 31/2020- Central Tax, dated 03.04.2020, NIL rate of interest for first 15 days after the due date of filing return in FORM GSTR-3B and reduced rate of interest @ 9% thereafter has been notified for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore. For those registered persons having turnover up to Rs. 5 Crore in the preceding financial year, NIL rate of interest has also been notified

Waiver of late fee for delay in furnishing returns in FORM GSTR-3B (Contd)

- Whether due date of furnishing FORM GSTR-3B for the months of February, March and April 2020 has been extended ?
- Further, vide notification as per the notification No. 32/2020-Central Tax, dated 03.04.2020, Government has waived the late fees for delay in furnishing the return in FORM GSTR-3B for the months of February, March and April 2020.
- The lower rate of interest and waiver of late fee would be available only if due tax is paid by filing return in FORM GSTR3B by the date(s) as specified in the Notification.

Waiver of Late fees for the filing of GSTR 1

- **Notification No. 33/2020- Central Tax, dated 03.04.2020**
- Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing the statement of outward supplies in FORM GSTR-1 for taxpayers for the tax periods March 2020 to May, 2020 and for quarter ending 31st March 2020 if the same are furnished on or before 30th day of June, 2020

Waiver of Late fees for the filing of GSTR 1 (Contd)

- **Circular No. 136/06/2020-GST dated 3rd April 2020**
- **Whether the due date of furnishing the statement of outward supplies in FORM GSTR-1 under section 37 has been extended for the months of February, March and April 2020?**
- Under the provisions of section 128 of the CGST Act, in terms of notification No. 33/2020- Central Tax, dated 03.04.2020, late fee leviable under section 47 has been waived for delay in furnishing the statement of outward supplies in FORM GSTR-1 under Section 37, for the tax periods March, 2020, April 2020, May, 2020 and quarter ending 31st March 2020 if the same are furnished on or before the 30th day of June, 2020.

Due Date extension for the filing of Form GST CMP-08 & GSTR 4

- **Notification No. 34/2020- Central Tax, dated 03.04.2020**
- Extension of due date of furnishing statement, containing the details of payment of self-assessed tax in FORM GST CMP-08 for the quarter ending 31st March 2020 till the 7th day of July 2020 and filing FORM GSTR-4 for the financial year ending 31st March 2020 till the 15th July 2020

Due Date extension for the filing of Form GST CMP-08 & GSTR 4 (Contd)

- **What are the measures that have been specifically taken for taxpayers who have opted to pay tax under section 10 the CGST Act or those availing the option to pay tax under the notification No.02/2019– Central Tax (Rate) dated the 7th March 2019?**
- The said class of taxpayers, as per the notification No. 34/2020- Central Tax dated 03.04.2020, have been allowed, to,-
 - furnish the statement of details of payment of self assessed tax in FORM GST CMP-08 for the quarter January to March 2020 by 07.07.2020; and
 - furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.

Due Date extension in respect of all compliances

- **Notification No. 35/2020- Central Tax, dated 03.04.2020**
- Notification under section 168A of CGST Act for extending due date of compliance which falls during the period from the 20th March 2020 to the 29th June, to 30th June 2020.
- The taxpayers who are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons- have been allowed to furnish the respective returns specified in sub-sections (3), (4) and (5) of section 39 of the said Act, for the months of March 2020 to May 2020 on or before the 30th June 2020.

Due Date extension in respect of all compliances (Contd)

- **Circular No. 136/06/2020-GST dated 3rd April 2020**
- **What will be the status of e-way bills which have expired during the lockdown period?**
- In terms of notification No.35/2020Central Tax, dated 03.04.2020, Issued under the provisions of 168A of the CGST Act, where the validity of an e-way-bill generated under rule 138 of the CGST Rules expires during the period 20th March, 2020 to 15th April, 2020, the validity period of such e-way bill has been extended till 30th April, 2020.

Due Date extension in respect of all compliances (Contd)

- **What are the measures that have been specifically taken for taxpayers who are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons?**
- Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the respective returns specified in subsections (3), (4) and (5) of section 39 of the said Act, for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020

Due Date extension in respect of all compliances (Contd)

- **What are the measures that have been specifically taken for Taxpayers who are required to collect tax at source under section 52? (essentially E-commerce operators as per GST)**
- Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the statement specified in section 52, for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020.

Due Date extension in respect of all compliances (Contd)

- **The time limit for compliance of some of the provisions of the CGST Act is falling during the lock-down period announced by the Government. What should the taxpayer do?**
- Vide notification No. 35/2020- Central Tax, dated 03.04.2020, issued under the provisions of 168A of the CGST Act, except for few provisions covered in exclusion clause, any time limit for completion or compliance of any action which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, has been extended to 30th day of June, 2020



Other Updates

Due date for GSTR-3B for May 2020

- **Notification No. 36/2020 – Central Tax dated 3rd April 2020**
- Seeks to extend due date for furnishing FORM GSTR-3B for supply made in the month of May 2020
- Due date for taxpayers having an aggregate turnover of more than rupees 5 crore rupees in the previous financial year,
 - on or before the 27th June 2020
- For other taxpayers, the dates shall be staggered to 12th July and 14th July 2020

Foreign Trade Policy, 2015-20

- **DGFT Notification No. 57/2020 dated 31st March 2020 & Public Notice No. 67 dated 31st March 2020**
- The Foreign Trade Policy(FTP) 2015-20 and Handbook of Procedures (HoP) 2015-20 shall remain in force until 31st March 2021

Extension of exemptions to imports by EOUs or against AA/EPCG

- **Notification No. 18/2020- Customs dated 30th March 2020**
- Extends the exemption on goods imported against AA/EPCG authorizations from Integrated Tax and Compensation Cess up to 31.03.2021
- **Notification No. 16 /2020-Customs dated 24th March 2020**
- Extends exemption to EOUs on imports from IGST and compensation cess till 31.03.2021; Notification No.52/2003-Customs dated 31.03.2003 amended accordingly.

Refund Related Changes

Circular No.135/05/2020 – GST dated 31st March 2020

Bunching of refund claims across Financial Years

- The restriction on clubbing of tax periods across different financial years was put in vide para 11.2 of the Circular No. 37/11/2018-GST dated 15.03.2018. The said circular was rescinded being subsumed in the Master Circular on Refunds No. 125/44/2019-GST dated 18.11.2019 and the said restriction on the clubbing of tax periods across financial years for claiming refund thus has been continued vide Paragraph 8 of the Circular No. 125/44/2019-GST dated 18.11.2019.
- Hon'ble Delhi High Court in Order dated 21.01.2020, in the case of M/s Pitambra Books Pvt Ltd., vide para 13 of the said order has stayed the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 and has also directed the Government to either open the online portal so as to enable the petitioner to file the tax refund electronically, or to accept the same manually within 4 weeks from the Order.

Bunching of refund claims across Financial Years (Contd)

- Hon'ble Delhi High Court vide para 12 of the aforesaid Order has observed that the Circulars can supplant but not supplement the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law.
- The restriction on clubbing of tax periods across Financial Years, has been removed.
- Accordingly, circular No. 125/44/2019-GST dated 18.11.2019 stands modified to that extent i.e. the restriction on bunching of refund claims across financial years shall not apply.

Refund of accumulated ITC on account of reduction in GST Rate

- Some of the applicants are seeking refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods.
- The refund of accumulated ITC in terms of section 54(3)(ii) of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do not get covered under the provisions of section 54(3)(ii). It is hereby clarified that refund of accumulated ITC under section 54(3)(ii) of the CGST Act would not be applicable in cases where the input and the output supplies are the same.

Manner of refund of tax paid on supplies other than zero rated supplies

- For the refund of tax paid, on supplies other than zero rated supplies, and falling in categories –(Refund of excess payment of tax; Refund of tax paid on intra-State supply which is subsequently held to be inter State supply and vice versa; Refund on account of assessment/provisional assessment/appeal/any other order; Refund on account of “any other” ground or reason) - No separate debit of ITC from electronic credit ledger is required to be made by the applicant at the time of filing refund claim, being claim of tax already paid. However, the total tax would have been normally paid by the applicant by debiting tax amount from both electronic credit ledger and electronic cash ledger. At present, in these cases, the amount of admissible refund, is paid in cash even when such payment of tax or any part thereof, has been made through ITC.

Manner of refund of tax paid on supplies other than zero rated supplies (Contd)

- This could lead to allowing unintended encashment of credit balances. Accordingly, vide notification No.16/2020-Central Tax dated 23.03.2020, sub-rule (4A) has been inserted in rule 86 of the CGST Rules, 2017. Further, sub-rule (1A) has also been inserted in rule 92.
- Thus any such refund of tax paid on supplies other than zero rated supplies will now be admissible proportionately in the respective original mode of payment i.e. in cases of refund, where the tax to be refunded has been paid by debiting both electronic cash and credit ledgers, the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which application for refund has been filed. Such amount, shall be accordingly paid by issuance of order in FORM GST RFD-06 for amount refundable in cash and FORM GST PMT-03 to re-credit the amount attributable to credit as ITC in the electronic credit ledger.

- In view of insertion of rule 36(4) of the CGST Rules, 2017 vide notification No. 49/2019-GST dated 09.10.2019, the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.
- Accordingly, para 36 of the circular No. 125/44/2019-GST, dated 18.11.2019 for uploading invoices which are not reflected in FORM GSTR-2A stands modified to that extent.

New Requirement to mention HSN/SAC in Annexure 'B'

- References have been received from the field formations that HSN wise details of goods and services are not available in FORM GSTR-2A and therefore it becomes very difficult to distinguish ITC on capital goods and/or input services out of total ITC for a relevant tax period. It has been recommended that a column relating to HSN/SAC Code should be added in the statement of invoices relating to inward supply as provided in Annexure–B of the circular No. 125/44/2019- GST dated 18.11.2019 to easily identify between the supplies of goods and services.
- Accordingly annexure –B has been suitably modified for applicants to upload the details of invoices reflecting in their FORM GSTR-2A. The applicant is, in addition to details already prescribed, now required to mention HSN/SAC code which is mentioned on the inward invoices.

New Requirement to mention HSN/SAC in Annexure 'B' (Contd)

In cases where supplier is not mandated to mention HSN/SAC code on invoice, the applicant need not mention HSN/SAC code in respect of such an inward supply.

Annexure-B

Statement of invoices to be submitted with application for refund of unutilized ITC

Sr. No.	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Category of input supplies		Central Tax	State Tax/ Union Territory Tax	Integrated Tax	Cess	Eligible for ITC	Amount of eligible ITC
			Invoice No.	Date	Value	Inputs/Input Services/capital goods	HSN/SAC						
1	2	3	4	5	6	7	8	9	10	11	12	13	14



Legal Updates

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Nelco Ltd Vs UOI & Ors reported in 2020-TIOL-641-HC-MUM-GST**

Facts

Petitioner had accumulated CENVAT credit and they attempted to file TRAN-1 form on 27.12.2017 but could not do so as, according to the petitioner, there were problems on the common portal. It is submitted that they sent an email to the official but did not get any response; that when they again tried on 28.12.2017, it did not permit filing the same and they, therefore, made another e-mail complaint on 12.01.2018 but received no response and, therefore, they have filed the petition. It is grievance of the petitioner that the last communication made was on 23.4.2018 which too has not been answered and they are, therefore, in danger of losing the CENVAT credit. Petitioner has also challenged the rule 117 of the CGST rules as being ultra vires sections 140(1), (2), (3) and (5) of the Act to the extent that it prescribes a time limit for filing TRAN-1 form.

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Decision of the Hon'ble High Court**

The rights and privileges accrued during the existing law have been saved u/s 174 of the CGST Act. If what is saved from the earlier regime was conditional, then it cannot be converted to something without conditions in the new regime during the period of transition. If, before and after the GST regime, the availment of Input Credit is conditional, then it cannot be that it is without any limit in the transitional period. With the advent of an entirely new tax regime, the earlier credit could have lapsed, but as and by way of concession, it is permitted to be carried forward for a limited time - Thus going by the scheme of the Act u/s 140(1), the reference to Input Tax credit is not by way of a right, but as a concession. Once it is held that the rule making power exists and the placing of a time limit on the concession is not ultra vires, then the further tinkering with the statutory scheme on hyper technical and academic arguments is neither desirable nor necessary - time limit in rule 117(2) is traceable to the rule making power

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Decision of the Hon'ble High Court**

conferred in s. 164(2) and the credit envisaged under section 140(1) being a concession, it can be regulated by placing a time limit, therefore, time limit under rule 117(1) is not ultra vires the Act.

On the contention of the Petitioner that the time limit-imposed u/r 117 is arbitrary and is in violation of Article 14 of the Constitution, the Hon'ble Court held as under:

When economic legislation is questioned, the Courts are slow to strike down a provision which may lead to financial complications - Taxation issues are highly sensitive and complex; legislations in economic matters are based on experimentations; Court should decide the constitutionality of such legislation by the generality of its provisions - Trial and error

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Decision of the Hon'ble High Court**

method is inherent in the economic endeavours of the State - In matters of economic policy, the accepted principle is that the Courts should be cautious to interfere as interference by the Courts in a complex taxation regime can have large scale ramifications - What is claimed by the petitioner is not a right but a concession and secondly the rule is not ultra vires - even on the aspect of unreasonableness, judicial pronouncements already hold the field - for the new regime to come into force, the transitional arrangements have been made - The view taken by the Gujarat High Court in Willowood is that Rule 117 is not ultra vires and there is no indefeasible right to carry forward CENVAT credit and the stipulation of the time limit is reasonable - the time limit in the impugned rule is not arbitrary or unreasonable - for an efficient administration of a tax system, certainty, especially in terms of time is important - Calculations of the tax liability dictated by subjective conditions can lead to uncertainty

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Decision of the Hon'ble High Court**

and such uncertainty makes it difficult to budget and ensure that funds are allocated where they are most required - the time limit for availing of input tax credit in the transitional provisions is rooted in larger public interest of having certainty in allocation and planning, the time limit u/r 117 is thus not irrelevant - upholding only the right to carry forward the credit and ignoring the time limit would make the transitional provision unworkable - Credit under the transitional provision is not a right to be exercised in perpetuity and by the very nature of the transitional provision, it has to be for a limited period - Once, under the GST law for future transactions of ITC, time limit is stipulated, then there is nothing unreasonable in the stipulated time limit for the transitional period - if relief is to be granted to the individual petitioner overriding the time limit on equity, the perception of what is equitable will differ from authority to authority and would lead to uncertainty and the operation of the

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Decision of the Hon'ble High Court**

the complicated tax system will become unworkable - there is also no merit in the submission that insistence on submitting declaration electronically creates a classification between those with needed capabilities and equipment and those who do not and hence is violative of Article 14 - With the ever-expanding sweep of digital data pervading almost all walks of life, it will be a retrograde step to declare a provision unreasonable because it mandates electronic compliance, especially when the enactment in question is an intricate tax regime powered by a software based system - Therefore, the time limit stipulated under rule 117 is neither unreasonable or arbitrary nor violative of Article 14 - Rule 117 is in accordance with the purpose laid down in the Act.

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **On the issue of meaning of phrase Technical difficulties in Rule 117(1A) of the CGST Rules**

GST - Rule 117(1A) - meaning of the phrase “technical difficulties” - This rule provides that the Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in form GST TRAN-1 by a further period not beyond 31st March 2019 (now extended to 31st March 2020) regarding registered persons who could not submit the said declaration by the due date because of ‘technical difficulties’ on the common portal and regarding whom the GST council has made a recommendation for such extension - Petitioner contends that the ambit of the phrase ‘technical difficulties’ will have to be defined by the Court and it cannot be let to the IT Grievance Cell of the GST council to define the same.

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Decision of the Hon'ble High Court**

GST Council is not a body to resolve technical issues, therefore, an IT Grievance Redressal Mechanism was developed by the GST Council and this Committee involved the CEO of the GST, Network Director General of Systems, CBSC and the Nominee from State as technical persons and based on the report of this Technical committee, a further recommendation would be made, therefore, there is no merit in the contention that the power could not have been delegated to the IT Grievance Redressal Committee - Contention of the petitioner that the phrase 'technical difficulty' in rule 117(1A) has to be broadly construed is not possible - Rule 117(1A) refers to technical difficulties in online submission of TRAN-1 form on the common portal and these technical difficulties are not the ones faced in general but on the common portal of

Section 140 of CGST Act – Transition provisions – held to be valid and legal

- **Decision of the Hon'ble High Court**

GST - meaning of the phrase 'technical difficulty' is thus clear that it is the technical difficulties which arise at the common portal of GST - The system log is an auto-generated data which records the activities performed; this data is not manually collected but auto-generated and from the system log it can be ascertained as to whether an attempt was made to access the data, therefore, not only there is nothing arbitrary in insisting on system log but a correct criterion - The system log is an unquestionable criterion for ascertaining the activity on the portal - the system log on the common portal does not support the case of the petitioner and this has been communicated - no direction can thus be issued to the respondents now to treat the case of the petitioner as filing within the ambit of Rule 117(1A) of the Rules - Petition is dismissed.

THANK YOU