



# CASE STUDIES - FINER ISSUES IN E-WAY BILLS, E-INVOICING & GST RETURNS

INDIRECT TAX STUDY CIRCLE – CHAMBER OF TAX  
CONSULTANTS

13<sup>TH</sup> October 2022

Chairman – CA Ashit Shah

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# E-INVOICING



M/s GSPL – T/o declared in returns 2019-20: 19.5cr

T/o Declared in GSTR 9 & GSTR 9C: 20.01cr


E-invoicing applicable from 1<sup>st</sup> April 2022. However, realised on 1<sup>st</sup> Oct 2022.

All invoices for Apr – Sept22 uploaded on 5<sup>th</sup> Oct 2022.

Date of Generation of IRN – 5<sup>th</sup> Oct 2022

GST Department wants to disallow credit of GSPL's customer RJPL – Condition u/s 16 contravened

## CASE STUDY 1

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- Credit eligibility of customers M.s GIPL.
    - Is department correct in stating that entire input tax credit for M/s RJPL is to be reversed?
    - Can department also ask for interest and penalty on wrongful availment of such credit.
  - Is Section 16(2) a pre-condition or a post facto condition to be fulfilled?

-Note: GIPL is a regular taxpayer and has uploaded its GSTR1 and GSTR3B within the due date.

## CASE STUDY 1




## CASE STUDY 1

- Delayed issuance of E-invoice – Can GST Department proceed with recovering Penalty on delayed generation of E-invoice on each of the transactions?

As per Sec 122(1) r/w sub-rule (5) of Rule 48 under the CGST Act 2017


-Penalty for non-generation of e invoice – 100% of the tax due or Rs.10,000, whichever is higher, for every invoice.

-Penalty for incorrect invoicing – Rs.25,000 per invoice.

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- Non issuance/Delayed Issuance of E-Invoice and Generation of E-way Bills where person in charge of conveyance did not carry the E-invoice but carried a GIPL's accounting system generated 'Tax Invoice'.

-Penalty for Moving goods without the cover of an invoice and Eway bill constitutes an offence and attracts a penalty of Rs. 10,000 or the tax sought to be evaded (whichever is greater)

## CASE STUDY 1



Is the exemption of E-Invoicing to certain taxpayers such as GTAs, Banking Companies etc – qua nature of supply or the entity as a whole?

- If exemption is to the entity - Would undertaking certain transactions as GTA absolve the entire entity?

## CASE STUDY 2



# E-WAY BILL



## CASE STUDY 3

Goods dispatched by MSPL from Nanded, Maharashtra to Trichy, Tamil Nadu on 1st August 2022.

### **Scenario (a)**

On reaching the factory in Trichy, the customer refused to unload the consignment on account of unavailability of space at his factory premises (will take 4 days)

The validity of the E-way bill will expire in a few hours. How is the particular scenario to be dealt with?

-It is not economically viable for MSPL to bring the goods back all the way to Nanded.



## CASE STUDY 3

Goods dispatched by MSPL from Nanded, Maharashtra to Trichy, Tamil Nadu on 1st August 2022.

### **Scenario (b)**

On reaching the factory in Trichy, the customer refused to unload the consignment on account of unavailability of space at his factory premises (will take 4 days).

The validity of the E-way bill will expire in a few hours.

Customer B located a few kilometers away is willing to take the goods.

What documentations is required to be made by MSPL to enable him to deliver the goods to Customer B instead of Customer A?

## CASE STUDY 3

Goods dispatched by MSPL from Nanded, Maharashtra to Trichy, Tamil Nadu on 1st August 2022.

### **Scenario (c)**

On the way to Trichy, Customer A has cancelled the Purchase Order. Truck is halted in Karnataka.

It has two options – bring the goods back to its factory or to find a buyer in Karnataka.

In both scenarios can a new e-way bill be generated? The truck is stationary on the highway, can such a location be used as dispatch location on the E-way Bill. Does the person in charge of Conveyance required to carry physical documents or can the documents be sent to the person in electronic form and the same can be considered as sufficient compliance for the purposes of GST?



## CASE STUDY 4

A truck carrying goods was dispatched from Nanded, Maharashtra to Lucknow, Uttar Pradesh. The goods were intercepted at the Banda Checkpoint in Uttar Pradesh and the vehicle was detained since the Tax invoice was misplaced by the driver of the vehicle, although E-way Bill, Delivery Challan and Lorry receipt in support of the supply transaction was produced immediately. There were no differences/discrepancies noticed by the officer on physical verification of the goods.

The officer then proceeded to propose levy of penalty at 100% of the tax u/s 129(3). MSPL in order to release the goods were made to deposit the tax Rs. 500,000/- and 100% penalty Rs. 500,000/- in Electronic Cash Ledger of the Temporary Registration No (TRN) in the state of UP generated by the officer. MSPL has no place of business in the state of UP.

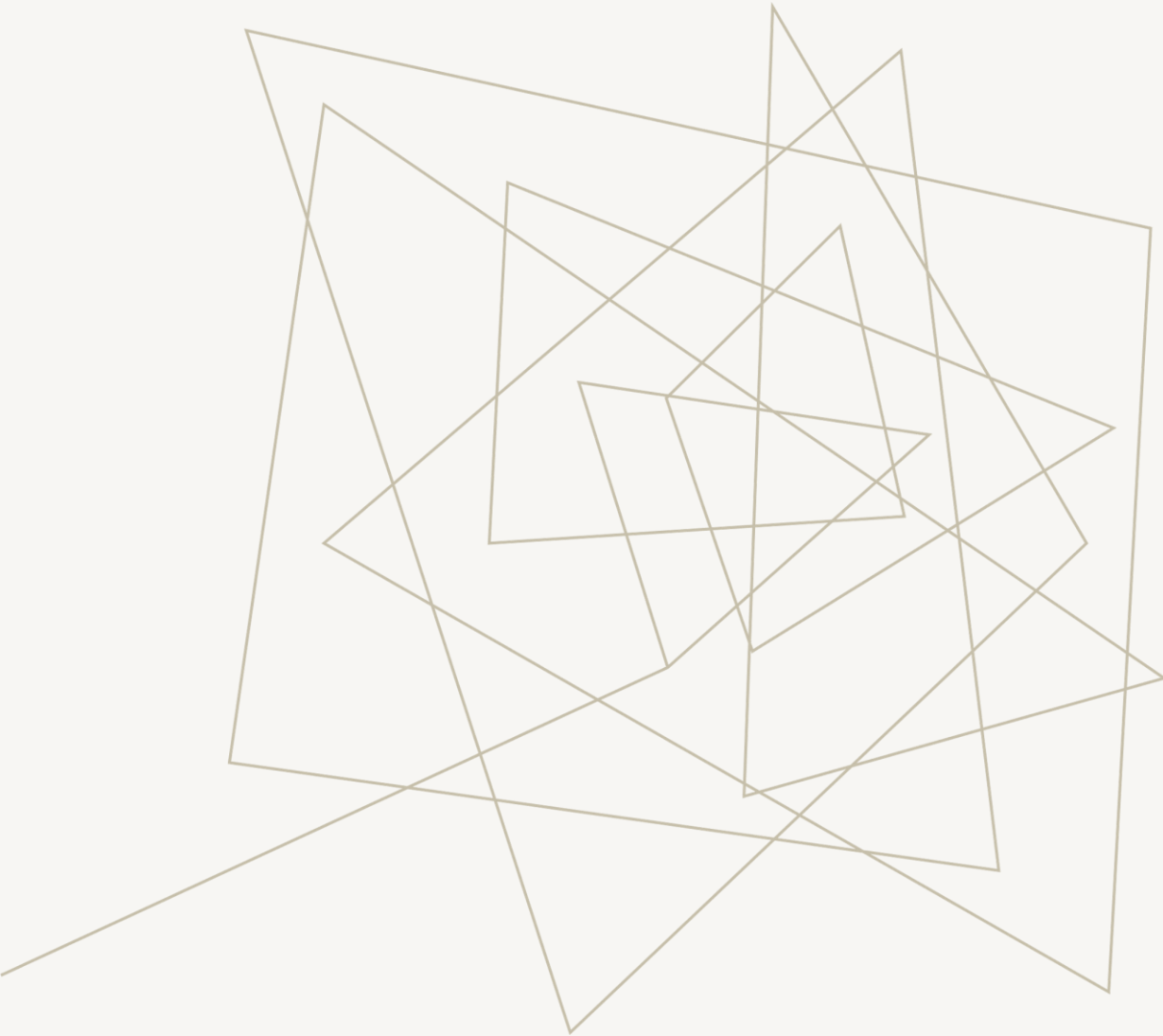
The truck was released on deposit of the said amount and DRC-07 was passed on the same day. Without any opportunity of hearing/intimation, the amount in the Electronic Cash Ledger was suo-moto adjusted by the officer.



## CASE STUDY 4

In view of the circumstances above, M/s MSPL is seeking your guidance on filing appeal.

- a) Can Appeal be filed in UP against a TRN generated in name of MSPL or is it to be filed in MH registration of MSPL
- b) Does UP have a right to demand tax, under what head is it to be recovered IGST or CGST/UP GST?
- c) If Appeal succeeds – where would the refund be available in MH or UP?



# RETURNS



## CASE STUDY 5

Circular No. 170/02/2022-GST dt 06.07.2022 was issued by the Department with the subject ‘Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1 –reg.’”

The Circular is issued under Sec 168 of the CGST Act, 2017.

Is such a circular ultravires and should it be challenged? Can such a circular be issued by the department, if so under which section under the Act.

## CASE STUDY 6

### New Format of GSTR3B Introduced

What is to be taken as Base- Books of Accounts or GSTR2B. Discuss in the following situations:

- a) Arithmetical Mistake – Invoice shown as 100,000/- instead of 10,000/-
- b) Transaction not pertaining to taxpayer appearing in GSTR2B
- c) Goods not received not booked in Books of accounts appearing in GSTR2B



## CASE STUDY 7

Reporting of Restaurant Services supplied through E-commerce operators

- Specific Table provided in GSTR3B. Still not provided in GSTR1

-Circular 167/23/2021 was introduced where for the time being it was to be shown in Table 8 in GSTR1 and Table 3.1(c) of the GSTR3B. The same does not autopopulate in the current table. How is the same to be reported right now.

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# THANK YOU

Umang Talati

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