S No.	Issue in brief	Details of the issue	Recommendation
1	GST refund surrender-Recredit of ITC	Rule 96B has been inserted into the Central Goods and Services Tax Rules, 2017 ('CGST Rules) w.e.f. 23 March 2020 which mandates an exporter of goods to repay the GST refunded to him, proportionate to the export proceeds not realized within the time (or extended) period allowed under the Foreign Exchange Management Act, 1999. Currently, the GST provisions do not provide for re-credit of the ITC in case of said repayment of GST refund. This would be tantamount to input tax credit ('ITC') becoming a cost in case of non-receipt of export proceeds. Thus, in case of bad debts, besides the export value being written-off, the attributable GST would also have to be written-off. However, if an exporter chooses not to claim refund on exports, there would be no requirement to reverse ITC proportionate to export of goods where the export proceeds have not been received. This puts an exporter who claims refund of GST under Rule 96 to disadvantage, vis-a-vis an exporter who does not claim export refund. This apparently would not be the intent of the legislature.	In case of non-receipt of export remittances within the stipulated time period, re-credit of attributable GST should be allowed to the exporter pursuant to surrender of GST refund on exports.
2	GST refunds in SEZ units	In the pre-GST regime, the Service Tax provisions mandated a Head Office/ Corporate Office, which qualifies as an Input Service Distributor ('ISD'), to distribute CENVAT credit availed on input services to all its manufacturing units, including SEZ units. As SEZ units were outside the purview of Central Excise and there was no Excise duty chargeable on goods manufactured in SEZs, there was no mechanism to utilize such distributed CENVAT credit. Thus, the Government had prescribed a mechanism under the erstwhile Service Tax law by which the SEZ units could claim refund of the service tax distributed to them. In the GST regime, the CGST Act 2017 has a similar provision which mandates a Head Office/ Corporate Office, which qualifies as an ISD, to distribute credit of GST availed on input services to all its business units, including a SEZ unit. The difference here vis-à-vis the previous pre-GST provisions is that the GST law extends to SEZs as well, unlike the Central Excise provisions which did not apply. The GST law allows exporters, both in Domestic Tariff Area ('DTA') and in SEZs, to pay GST on exports and claim refund of the same. However, the SEZ online module presently does not provide a facility for exports from SEZ unit to be affected on payment of GST. At the time of preparation of Shipping Bill, an auto-generated declaration 'Supply meant for export by SEZ Entity under Bond or Letter of Undertaking without payment of Integrated Tax' gets printed in the Shipping Bill.	The SEZ online module should be enabled to permit exports on payment of GST and refunds can be sanctioned. Ideally, the SEZ online module should communicate seamlessly with the GST Network (similar to how the Customs ICEGATE portal communicates with the GST Network portal), and the GST refund process should be automated.

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		This significantly impacts the working capital of exporters. The alternate option of claiming ITC refund is an arduous task and most often culminates into delayed liquidation of credit balances.	
3	GST on out of court Settlement expenses to the extent it represents compensation for any injury, loss, or damage	While the CBIC has clarified that GS is not payable on liquidated damages, there is still ambiguity as to whether out of court settlement is liable to GST	The CBIC vide the Circular No. 178/10/2022-GST dated 3 August 2022 in the context of levy of GST on liquidated damages clarified that s "liquidated damages" is paid only to compensate for injury, loss or damage suffered by the aggrieved party, without any agreement, such liquidated damages are merely a flow of money from the party who causes breach of the contract. Liquidated damages are not the desired outcome of a contract. Thus, such payment would not be constituted as a consideration for supply and hence, not taxable. Similarly, out of court settlements to the extent it represents compensation for any injury, loss, or damage should be out of GST coverage.
4	GST on employees' salaries	In GST, establishments of a company in different states within India are considered separate persons ("distinct persons") under section 25 of the CGST Act. Also, under Schedule 1 to the CGST Act, supply of goods/services between distinct persons is liable to GST even if the said supply does not involve consideration. In this context, an AAAR has ruled that Head Office would be deemed to provide business support services to its branches across India. Pursuant to the same, authorities are insisting that the Head Office employees' salaries should be cross charged to its branches across India, along with applicable GST. This culminates into payment of GST on remuneration paid to employees in Head Office, otherwise not payable.	In order to dispel ambiguity and potential litigation, a suitable clarification should be provided to exclude employees' salaries from the value of deemed service provided by the Head Office to its branches.

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		Services are provided by the 'employees' to the legal entity (employer) as a whole and there is no separate supply of service by Head Office to branch. As such, an employee of a company based in the Head Office is also an employee of all branches of the company. Therefore, the concept of 'distinct person' cannot be stretched to tax something (salary cost) by a deeming fiction, which is *per se* not taxable under the GST Law If service is to be inferred from the symbiotic relationship of HO and branches, because of the 'benefit' concept, then the existence and functioning of the branches too will have to be considered as a service to the HO. In fact, there would be no company and no HO without the activities of the branches. A prudent interpretation of the Schedule I entry can only be that specific supplies of goods / services between locations of a company in different States is taxable	
5	Centralized Jurisdiction for Audits and Litigation	In many instances, the notices pertain to a same subject, such as section 65 audits, mismatches, Rule 42/43 reversals, ineligible credits, or any other industry-related matter. Not only is addressing these issues simultaneously in numerous jurisdictions a challenge for taxpayers, but it also causes the department to duplicate its efforts. The challenges are particularly severe for taxpayers who operate in multiple/ pan-Indian jurisdictions. To address these issues, the earlier model of Large Taxpayer Units (LTU) may be customized and introduced in GST to enhance tax administration while facilitating ease of compliances. LTU, alike Centralized GST Jurisdiction, will help the taxpayers in resolving issues on PAN level as it would provide them a substantial relief in managing the compliance. Further, the Central authority would be able to carry out audit on the entire business of the taxpayer on an all-India basis.	The CBIC may consider forming an LTU-like structure to centrally manage all the litigation, audits, refunds on a PAN level basis for large taxpayers.
6	Interest on delayed sanction of GST refund in cases where the matter goes upto appellate level	There appears to be confusion amongst GST officials in relation to application of interest on delayed GST refunds when a refund is initially rejected by the adjudicating authorities but subsequently allowed by the appellate authority upon the taxpayer's appeal. The stand taken by GST authorities is that interest is payable only if there is a delay of more than 60 days from the date of the appellate authority's order, rather than from the date of the refund application.	Proviso to Section 56 of the CGST Act 2017 outlines the eligibility for interest when a refund arises from an order passed by an Adjudicating Authority, Appellate Authority, Appellate Tribunal, or Court. It is evident from the language of the proviso that the application for refund referred to therein pertains to

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			proceedings other than a refund application under Section 54(1) of the CGST Act, such as departmental audits, assessment, review, scrutiny, etc., which are subsequently found to be refundable to the taxpayer. The inclusion of "adjudicating authority" in the proviso clearly indicates that it covers situations where refunds are arising from proceedings other than appellate orders. On the other hand, cases where a refund is rejected by the adjudicating authorities but allowed by the appellate authority is covered by the principal section read with the Explanation to Section 56 of the CGST Act. The principal provision covers scenarios where a taxpayer files an application under Section 54(1) of the CGST Act for refund of tax and interest, and an order is passed under Section 54(5) of the CGST Act by the Proper Officer for granting such a refund. If there is a delay beyond the stipulated period (i.e., 60 days from the date of filing the refund application) in refunding the amount as per the order under Section 54(5), interest would be payable from the date immediately after the expiry of 60 days from the date of receipt of the application under Section 54(1) until the date of the refund. There are cases where the Proper Officer issues an order rejecting the refund claim, either entirely or partially, necessitating an appeal before the Appellate Authority (or subsequently before an Appellate Tribunal or the

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			Court). In such cases, if the appeal is decided in favor of the taxpayer, the Explanation to Section 56 of the CGST Act, 2017 comes into play. The Explanation states that an order passed by the Appellate Authority (or subsequently by the Appellate Tribunal or the Court) granting the refund shall be deemed to be an order passed under Section 54(5) of the CGST Act, 2017. Consequently, the correct and logical interpretation, based on the conjoint reading of the principal provision of Section 56 and the Explanation, leads to the conclusion that the order passed by the Appellate Authority (or by the Appellate Tribunal or the Court) against the order passed by the Proper Officer is, in essence, an order passed by the Proper Officer under Section 54(5) of the CGST Act, 2017. Therefore, if there is a delay beyond the stipulated period (i.e., 60 days from the date of filing the refund application), including the order passed by the appellate authority, interest would be payable from the date immediately after the expiry of 60 days from the date of receipt of the application, and not from the date of the appellate authority's order. Given the discrepancy in the interpretation of the relevant provisions, appropriate guidance may be provided on the calculation of interest on delayed GST refunds in cases where the refund

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			is initially rejected by the adjudicating authorities but subsequently allowed by the appellate authority