GST Update

Weekly Update
23.12.2017
Background

• This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 16.12.2017. It supplements the earlier GST Updates.

• This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required.
Notifications and Circulars

- Four CGST Notifications, four Circulars and one Order on GST issued during last week
- Advisory issued by ADG, Systems, Chennai
- Similar Notifications issued under respective SGST Act(s)
Extension of time limit for claiming ITC under Special Circumstances (Sec 18(1) of CGST Act, 2017)


- Notification No.67/2017-Central Tax dated 21.12.2017 issued
- Time limit for filing GST ITC-01 to claim credit of ITC under circumstances mentioned in Section 18(1) of CGST Act, 2017, extended till 31.01.2018. (For taxpayers who become eligible during the months of July, Aug, Sep, Oct & Nov 2017
- Supersedes Notification No. 44/2017-Central Tax dated 13.10.2017 under which the time limit was 31.10.2017
Extension of time limit for filing GSTR-5 (monthly return) Non-Resident Taxpayers


• Notification No. 68/2017-Central Tax dated 21.12.2017 issued

• Time limit for filing GSTR-05 for the months of July to December 2017 by Non-resident taxpayers, extended till 31.01.2018.

• Supercedes notification no.60/2017-Central Tax dated 15.11.2017 under which the time limit was 11.12.2017 (For the months from July to October 2017)
Extension of time limit for filing GSTR-5A (monthly return) by OIDAR suppliers


- Notification No. 69/2017-Central Tax dated 21.12.2017 issued

- Time limit for filing GSTR-5A for the months of July to December 2017 by suppliers of OIDAR services to non-taxable online recipients in India, extended till 31.01.2018.

- Supercedes notification no.61/2017-Central Tax dated 15.11.2017 under which the time limit was 15.12.2017 (For the months from July to October 2017)

• Notification No. 70/2017-Central Tax dated 21.12.2017 issued

• Amends CGST Rules, 2017
  • In form GSTR-1, new table 6 substituted showing bifurcation of details for exports (6A), supplies to SEZ (6B) & Deemed Exports (6C)
• In form RFD-01
  o (a) in Table 7, in clause (h), for the words “Recipient of deemed export”, the words “Recipient of deemed export supplies/Supplier of deemed export supplies” shall be substituted;
  o (b) after Statement 1, new statement 1A prescribed for claim of ITC on account of inverted duty structure
  o Statement 5B inserted for refund on account of deemed exports along with declaration by supplier/recipient.
• Similar changes incorporated in Form RFD-1A (manual claim of refund)

- **art work for supply on approval basis** can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a **delivery challan** along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

- Also clarifies that the supplies of the art work from one State to another State will be inter-State supplies and attract integrated tax in terms of section 5 of the Integrated Goods and Services Tax Act, 2017.
Further clarifies that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.

It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.
Maintenance of Books of accounts by Principal & Auctioneer – Clarification reg

- Circular applicable to the supply of tea, coffee, rubber, etc. where the auctioneer claims ITC in respect of the supply made to him by the principal before the auction of such goods and the said goods are supplied only through auction.
- Principal/auctioneer required to declare warehouses where goods are stored as additional place of business. Buyer also required to declare such warehouse as additional place of business in case he wishes to store goods at such warehouse after purchase.
• [External Link](http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-23-cgst.pdf;jsessionid=068D81ABD75FA5F647928943F31A2F17)

• In case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).

• Such principal or auctioneer shall intimate their jurisdictional proper officer in writing about the maintenance of books of accounts relating to additional place(s) of business at their principal place of business.

• Further, the principal or the auctioneer shall be eligible to avail input tax credit (ITC) subject to the fulfilment of other provisions of the Act and the rules made thereunder.
Clarification reg Refunds


•  Circular No.24/24/2017-GST dated 21.12.2017 issued

•  Clarifies that the provisions of Circular No. 17/17/2017-GST dated 15.11.2017 shall also be applicable to the following types of refund in as much as they pertain to the method of filing of the refund claim and its processing which is consistent with the relevant provisions of the CGST Act, 2017 & CGST Rules, 2017:-

•  (i) refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) of goods or services or both except those supplies which are notified by the Government on the recommendations of the Council
Clarification reg Refunds (Contd)

• (ii) refund of tax on the supply of goods regarded as deemed exports; and (iii) refund of balance in the electronic cash ledger

• Refund claims in respect of zero-rated supplies and on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly basis in FORM GST RFD-01A.

• Registered persons having aggregate turnover of up to Rs1.5 crore in the preceding financial year or the current financial year are opting to file FORM GSTR-1 quarterly shall apply for refund on a quarterly basis.

• Refund claim for a tax period to be filed after filing the details in FORM GSTR-1 for the said tax period. Also a valid return in FORM GSTR-3B should have been filed for the last tax period before the one in which the refund application is being filed.
Clarification reg Refunds (Contd)

• Since dates of furnishing of FORM GSTR 2 and FORM GSTR 3 for such period are yet to be notified, Refund will be sanctioned of provisionally accepted input tax credit at this juncture.

• However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case it is found subsequently that the requirements of clause (c) of sub-section (2) of section 16 read with sub-section (2) of sections 42 of the CGST Act have not been complied with in respect of the amount refunded.
Clarification reg Refunds (Contd)

• Procedure for communication between central and state tax authorities for sanction of refund of respective taxes

• To facilitate sanction of refund amount by the respective tax authorities, it has been decided that both the Central and State Tax authority shall nominate nodal officer(s) for the purpose of liasioning through a dedicated e-mail id. Where the amount of central tax and State tax refund is ordered to be sanctioned provisionally by the Central tax authority and a sanction order is passed, the Central tax authority shall communicate the same, through the nodal officer, to the State tax authority for making payment of the sanctioned refund amount in relation to State tax and vice versa.
Clarification reg Refunds (Contd)

- The communication shall be made through e-mail attaching the scanned copies of the sanction order [FORM GST RFD-04 and FORM GST RFD-06], the application for refund in FORM GST RFD-01A and the Acknowledgement Receipt Number (ARN).

- Accordingly, the jurisdictional proper officer of Central or State Tax, as the case may be, shall issue FORM GST RFD-05 and send it to the DDO for onward transmission for release of payment. After release of payment by the respective PAO to the applicant’s bank account, the nodal officer of Central tax and State tax authority shall inform each other. The manner of communication as referred earlier shall be followed at the time of final sanctioning of the refund also.
Manual filing of application for Advance Ruling

- Due to unavailability of requisite forms for filing advance ruling applications on the common portal, manual procedure for filing of Advance Ruling applications have been prescribed.
- The same has been done on the recommendations of the Council and for the purpose of ensuring uniformity in the processing of such manual applications till the advance ruling module is made available on the common portal.
- Form GST-ARA 01 prescribed for filing manual application before Advance Ruling Authority
- Form GST ARA-02 (for applicant) & GST-ARA-03 (for Revenue) prescribed for filing appeals against Advance Rulings.
Composition Dealers – extension of time for intimating Details of Stock

- Order supercedes Order No. 05/2017-GST dated 28th October, 2017

- The period for intimation of details of stock held on the date preceding the date from which the option to pay tax under section 10 of the Act is exercised in FORM GST CMP-03 is extended till 31stJanuary, 2018
GST Portal Updates
GSTR-1 Filing

• GSTR-1 for August month onwards can be filed
• A new functionality has been introduced on the GST portal to allow the taxpayers to select the frequency of filing FORM GSTR 1 on quarterly/monthly basis, the GSTN informed today. Taxpayers with annual aggregate turnover up to Rs 1.5 crore, in the previous financial year or anticipated in the current financial year, can avail the option of filing quarterly returns.
• All users logging on the GST portal will have to choose appropriate option before they can proceed further to file return FORM like GSTR-1 or GSTR-3B. After giving their option taxpayers can file GSTR-1 for the relevant return periods.
• Those who opt for quarterly filing, will have to select the last month of the quarter from the drop down menu. For example September for Q2 and December for Q3 quarterly return. However, it is clarified that GSTR-1 has to be filed for July month by all taxpayers as option to file quarterly returns is applicable for returns from August onwards
• **GSTR-1 for August month onwards can be filed**
• Thus a taxpayer who opts for quarterly return filing will have to file GSTR-1 in the following manner:
  • For July: monthly (by choosing July from drop down menu)
  • For 2nd Quarter (August and Sept): Quarterly by choosing Sept
  • For 3rd Quarter (Oct-Dec): Quarterly by choosing December
• All the taxpayers who opt for monthly filing can now file GSTR 1 from August onwards till November. Filing of return of previous month is mandatory.
  • For example, GSTR 1 for the month of August 2017 can be filed only after GSTR 3B and GSTR 1 of July 2017 are filed.
Table 9 of GSTR-1

- **Facility made available to edit details of GSTR-1 or Table6A of GSTR-1 (filed by exporters) earlier.**
- Table 9 of GSTR 1 has now been introduced.
- This provides taxpayers with a facility to edit invoices/credit notes/ debit notes / shipping bill details submitted previously in GSTR-1 of July or Table 6A of GSTR 1 for the month of August onwards (submitted by exporters).
- Thus the entries made incorrectly in GSTR-1 of July or Table 6A of GSTR 1 can be corrected using Table 9 of GSTR1 being filed in current tax period. In case the taxpayer has entered invoices with incorrect taxable values for previous tax period, they will now be able to amend these details.
• Taxpayers who registered themselves as Normal taxpayer but opted for Composition later require dashboard of monthly as well as quarterly taxpayer as they were normal taxpayer (monthly return filer) for part of the period and composition for remaining period (quarterly return filer).

• Similarly, those who were registered as Composition but opted out of it and became later will also require composite dashboard.

• The composite dashboard for such taxpayers will be made available soon. The offline tool is being enhanced to include the amendment of invoices and will be made available soon.
• **GSTR-5A Return, to be filed by OIDAR made available on GST Portal**

• GSTN has also introduced the functionality of GSTR-5A Return, to be filed by OIDAR (Online Information Database Access or Retrieval Services) taxpayers.

• This is to be filed by companies which provide services through the medium of internet and are received by the recipient online without having any physical interface with the supplier of such services. e.g. download of an e-book or music, advertising on internet, providing data or information etc. would amount to receipt of OIDAR services by the consumer.
Transition Forms TRAN 2 made available of GST portal

Transition Form TRAN 2 has also been made available on the GST Portal. A registered person under GST regime on fulfilment of below mentioned conditions can file Form GST TRAN 2:

1) Such person should not be registered under the old regime/Pre GST regime.
2) Should possess closing stock on 30th June, 2017.
3) Should neither be a manufacturer under Central Excise Act nor a supplier of services under Service Tax Act.
4) Should not be in possession of any invoice or any other document as evidence of payment of taxes.
Refund of unutilised ITC

Q. How can I get my refund of ITC on account of export without payment of Tax?

A. You may comply with the activities as specified below:

1. You have to file refund application RFD – 1A at GST Portal.
2. You have to mention turnover of Zero Related supplies and Adjusted Total Turnover in a State or UT for the period refund is sought for and the net ITC (the ITC availed during the period refund is sought for).
3. System will auto calculate the eligible refund amount and post in the last column of table.
4. Applicant has to ensure that he has filed the return (GSTR 3B) of the period for which Refund is sought.
5. Balance in ITC ledger should be sufficient in each head (IGST/CGST/SGST/UTGST/CESS).
6. He should have exported goods/service on account of which he is claiming ITC refund.
7. In case of export of services, he should have obtained FIRC/BRC from the concerned bank.
8. Once Application Reference Number (ARN) is generated, take a print of Application and submit to the Jurisdictional Authority manually along with other relied upon documents as required under RFD01

NOTE: FORM RFD 01A can be filed only after filing of valid GSTR3B for the Return Period

20 Dec '17  https://tutorial.gst.gov.in/userguide/refund/index.htm  1/10

www.gstn.org /gstsystemsindia @askGSTech /Goods&ServicesTaxNetwork

National Academy of Customs, Indirect Taxes and Narcotics (NACIN)
Q. What are the conditions that I have to fulfill for getting refund of IGST paid on Export of Goods (with payment of tax)?

1. GSTR – 1 for the month of July or Table 6A of GSTR – 1 for subsequent months must be filed. Since filing of GSTR 1 for August, September, October, November and subsequent months are being enabled shortly, filing of Table 6A of GSTR1 would be discontinued w.e.f. GSTR1 filing.
2. Shipping bill no. & date should be mentioned in Table 6A of GSTR – 1 and IGST amount should be mentioned.
3. GSTR – 3B for the relevant tax period should have been filed
4. IGST amount to be paid should be shown under Table 3.1(b) of GSTR – 3B, which must be equal or greater than the IGST amount shown to be paid under Table 6A GSTR – 1.
5. The Invoice details given under GSTR – 1/ Table 6A of GSTR – 1 and given under shipping bill should be the same.
Q. How can I file Refund application for the IGST paid on export of goods?
A. There is no requirement to file separate refund for IGST paid on export of goods. The Shipping Bills filed by the taxpayer itself is treated as refund application and the refund amount is processed and paid to the taxpayer if conditions as specified in reply to the question number 2 are fulfilled.
GST Updates on Back End Application
Advisory by ADG Systems, Chennai

- Advisory issued by ADG, DG, Systems, Chennai
- **Registration Module**
  - Applications for new registrations assigned to CBEC are visible to CPC Superintendents for approval/query (including applications for casual registration).
  - Post-approval, the taxpayer is assigned jurisdiction based on the Pin Code of the Principal Place of Business. If the Pin Code is either invalid, or falls under the jurisdiction of multiple ranges, the range jurisdiction has to be manually assigned by CPC officers.
  - Post assignment of jurisdiction, the entire registration data (REG-01/REG-26 form along with REG-06 Registration Certificate) is visible to jurisdictional officers at the Range, Division, Commissionerate and Zonal levels.
  - Core amendment requests filed by taxpayers are pushed to jurisdictional Range Superintendents for approval/query
Payments Module 1. Challans generated on GSTN system and paid by taxpayers are visible in PMT-06 format to jurisdictional officers at Range, Division, Commissionerate and Zonal levels.

Returns Module 1.

GSTR-3B returns as filed by taxpayers in GSTN Portal are available to jurisdictional officers at Range, Division, Commissionerate and Zonal levels in full format.

GSTR-1 return as filed by taxpayers in GSTN Portal are available to jurisdictional officers at Range, Division, Commissionerate and Zonal levels in full format.
• Reports Module
• Registration: Daily report for Zonal Chief Commissioners
• Registration: Jurisdictional profile report which shows number of taxpayers (new and migrated) and breakup based on business constitution, nature of business activity etc. This report can be run at Range, Division, Commissionerate and Zone levels.
• Taxpayer details can be downloaded as Excel sheet at Range and Division levels
• ACL: List of ACL Administrators 5. ACL: List of officers mapped in the Application, formation-wise 6. ACL: List of officers mapped in the Application, permission-wise
• **ACL Module:** 1. ACL Administrators can migrate taxpayers from one jurisdiction to another 2. ACL Administrators can map officers to a formation and assign a permission set 3. ACL Administrators can assign “Additional charge” to any officers 4. Officers can notify ACL Administrator of their transfer, in order to be mapped to a new formation 5. Officers can notify ACL Administrator of their promotion, in order to be assigned new permissions 6. Officers can notify leave so that ACL Administrator may assign additional charge to an alternate officer. 7. Officers in other verticals like Audit Commissionerates, DG (Audit), DGGSTI etc. can also be mapped after nomination of ACL Administrators
Guidelines on Core Amendments by Supdt

Core Amendments are

- Legal Name of Business
- Address of the principal place of business or any additional place(s) of business; or
- Addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business

Any data other than the above, is auto approved by the GSTN System. Only core amendment requests are routed to the proper officer for action within fifteen working days.
• The dashboard of the Range Superintendent will prominently indicate any “Amendment Applications” pending for approval
• Supdt can approve, issue query and set time for personal hearing (As there is no separate avenue to intimate PH except the REG-03 form, officer needs to indicate the date and time for PH when raising the query itself)
• Supdt can reject or approve the amendment based on the response
• Supdt can also delegate to inspector for verification
• Concept of Deemed approval, if no action by Supdt
GST – Legal Updates
GST on Auction of Minerals

2017-TIOL-02-SC GST

Samaj Parivartana Samudaya Vs State of Karnataka (Dated: October 5, 2017)

An entity purchased mineral sold by the State in an e-auction. The minerals were then leased to another entity. When the revenue sought to impose GST duty on the sale value of the mineral purchased in the e-auction, the issue arose as to who between the purchaser of the minerals and the lessee would pay the tax.

The SC held that the buyer of the minerals liable to pay GST directly to the lessee. The lessee would further be responsible for ensuring all compliances - Monitoring Committee to enable the lessee to claim and obtain input tax credit under the CGST Act, 2017 and also prepare appropriate proforma and also take steps for carrying proper Tax Identification Number of the respective lessees on the invoices.
Compensation Cess on Coal

2017-TIOL-01-SC-GST

UoI Vs Mohit Mineral Pvt Ltd (Dated: September 22, 2017)

SC stays Delhi HC order granting ad-interim relief to the petitioner

GST - Clean Energy Cess under the FA, 2010 – For the purpose of providing compensation to States for loss of revenue arising out of the implementation of the GST regime, Section 8 contemplates the cess being collected in such a manner as may be prescribed and in terms of the Goods and Services Tax Compensation Cess Rules, 2017 and by Notification No.1/2017 - Compensation Cess (Rate), dated 28th June 2017 issued by the Ministry of Finance, Department of Revenue, the cess @ Rs.400 per tonne of coal has been re-introduced –
• Petitioner had challenged the constitutional validity of GST (Compensation to States) Act, 2017 - Delhi High Court had held that it sees prima facie merit in the contention of the Petitioner's submission that Section 18 of the COI 101st Amendment Act does not enable the Parliament to levy any Cess which stood abolished in terms of the Third Schedule of the Taxation Laws (Amendment) Act, 2017 and had granted partial ad interim relief subject to conditions; that as far as the additional levy on the stocks of coal on which petitioner had already paid the Clean Energy Cess in terms of FA Act, 2010, the Petitioner should not be required to make any further payment, however, on stocks of coal on which no Clean Energy Cess under the FA, 2010 was paid, any payment made in terms of the impugned Act would be subject to the result of the petition - Revenue in appeal before Supreme Court.
Challenge to the validity of GST (Compensation to States) Act, 2017 – order dated 7\textsuperscript{th} December 2017

Adi Tradelink Vs UOI reported in 2017-TIOL-38-HC-AHM-GST

• Petitioner, an importer of coal has challenged the constitutional validity of the GST (Compensation to States) Act, 2017 and relevant notifications issued on the ground the same are ultra vires Article 279A of the Constitution – inasmuch as it is their grievance that on the coal imported by it prior to the introduction of Goods and Services tax regime, the petitioner had already paid clean energy cess at the prescribed rate and on the stock which the petitioner had not cleared, no credit would be allowed on such cess and the petitioner would be asked to pay fresh cess under GST (Compensation to States) Act, 2017.

• Held: Issue notice returnable on 18.01.2018 – notice to be issued to Attorney General of India in view of the fact that validity of Union legislation is questioned: High Court
Validity of union legislation questioned in the following cases

Challenge to the Vires of Section 140(3)(iv) of CGST Act, 2017

2017-TIOL-40-HC-AHM-GST

Hitesh Engineering Vs UoI (Dated: December 7, 2017)

GST - Petitioners have challenged the condition contained in clause (iv) of sub-section (3) of section 140 of the CGST Act, 2017 which mandates that the registered person can take in his electronic credit ledger, credit of eligible duties on the strength of invoices or other prescribed documents which were issued not earlier than twelve months immediately preceding the appointed day – it is the case of the petitioner that they have sizable stock of goods purchased prior to the said period and on which, by virtue of the said condition, no CENVAT credit would be available.
Held: Issue notice returnable on 25.01.2018 - notice to be issued to Attorney General of India in view of the fact that validity of Union legislation is questioned: High Court.

Similar challenge to Section 140(3)(iv) made before Delhi High Court in the case of GMMCO reported in 2017-TIOL-42-HC-DEL-GST & Mumbai HC in Evergreen Seamless pipes reported in 2017-TIOL-44-HC-MUM-GST
Demand Notices under Service Tax (Finance Act, 1994)


- Mascot Entrade Pvt Ltd reported in 2017-TIOL-2603-HC-GUW-ST
- ST - Omission of Entry 92C from List-I of Seventh Schedule – Issuance of SCN in the matter of Service Tax after enactment of CGST Act, 2017 is prima facie without jurisdiction –
- Further proceeding under impugned notice stayed until the returnable date 05.02.2018: Guwahati High Court.
Any ISSUES/ queries?

- https://cbec-gst.gov.in/
- CBEC MITRA HELPDESK
  - 1800 1200 232
  - cbecmitra.helpdesk@icegate.gov.in

- GSTN Help Desk
  - helpdesk@gst.gov.in
  - Help Desk Number: 0120-4888999
Any ISSUES/ queries?

- **Twitter Handles**
- For General Questions
  - [https://twitter.com/askGST_GoI](https://twitter.com/askGST_GoI)
- For technology related issues
  - [https://twitter.com/askGSTech](https://twitter.com/askGSTech)
- **NACIN twitter**
- [https://twitter.com/GSTNACIN](https://twitter.com/GSTNACIN)
THANK YOU