

GST Update

Weekly Update
26.01.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 19.01.2019. 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

- One PIB press release issued in relation to creation of GST Appellate Tribunal (GSTAT)

National Bench of the GST Appellate Tribunal (GSTAT)

- <http://pib.nic.in/newsite/PrintRelease.aspx?relid=187692>
- The Union Cabinet, chaired by the Prime Minister Shri Narendra Modi, has approved the creation of National Bench of the GST Appellate Tribunal (GSTAT).
- The National Bench of the Appellate Tribunal shall be situated at New Delhi. GSTAT shall be presided over by its President and shall consist of one Technical Member (Centre) and one Technical Member (State).

National Bench of the GST Appellate Tribunal (GSTAT)

- GST Appellate Tribunal is the forum of second appeal in GST laws and the first common forum of dispute resolution between Centre and States.
- The appeals against the orders in first appeals issued by the Appellate Authorities under the Central and State GST Acts lie before the GST Appellate Tribunal, which is common under the Central as well as State GST Acts.
- Being a common forum, GST Appellate Tribunal will ensure that there is uniformity in redressal of disputes arising under GST, and therefore, in implementation of GST across the country

National Bench of the GST Appellate Tribunal (GSTAT)



- Chapter XVIII of the CGST Act provides for the Appeal and Review Mechanism for dispute resolution under the GST Regime.
- Section 109 of this Chapter under CGST Act empowers the Central Government to constitute, on the recommendation of Council, by notification, with effect from such date as may be specified therein, an Appellate Tribunal known as the GST Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

GST Appellate Tribunal

- Earlier GST Council had in its 28th Meeting approved the following:
- Constitution of Goods and Service Tax Appellate Tribunal (GSTAT); and
- Creation of National Bench of GST Appellate Tribunal at New Delhi and three Regional Benches at Mumbai, Chennai and Kolkata.
- GST Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2018



GST Legal Updates

Gujarat High Court Strikes down Para 4 of Circular 34/8/2018-GST dt 1.3.18

Para 4 of Circular No.34/8/2018-GST dated 01.03.2018 clarified as under

(1) Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST?

(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017-CT (R), Sl. No. 25. The other services such as, -

- i. Application fee for releasing connection of electricity;
 - ii. Rental Charges against metering equipment;
 - iii. Testing fee for meters/ transformers, capacitors etc.;
 - iv. Labour charges from customers for shifting of meters or shifting of service lines;
 - v. charges for duplicate bill;
- provided by DISCOMS to consumer are taxable.

Gujarat High Court Strikes down Para 4 of Circular 34/8/2018-GST dt 1.3.18

The validity of Para 4 of Circular No.34/8/2018-GST dated 01.03.2018 was challenged in R/Special Civil Application No. 5343 of 2018. The Gujarat HC in the said case held as under

“Meaning of "transmission and distribution of electricity" does not change, either for the negative list regime or the GST regime . Services which stood included within the ambit of transmission and distribution of electricity during the pre-negative list regime cannot now be sought be excluded by merely issuing a clarificatory circular 34/8/2018-GST, that too, with retrospective effect. Services provided by the petitioner are in the nature of composite supply and, therefore, in view of the provisions of clause (a) of section 8 of the CGST Act, the tax liability thereof has to be determined by treating such composite same as a supply of the principal supply of transmission and distribution of electricity. Consequently, if the principal supply of transmission and distribution of electricity is exempt from levy of service tax, the tax liability of the related services shall be determined accordingly - Paragraph 4 (1) of the impugned Circular No. 34/8/2018-GST dated”

Gujarat High Court Strikes down Para 4 of Circular 34/8/2018-GST dt 1.3.18

Contd....

1.3.2018 is hereby struck down as being ultra vires the provisions of section 8 of the Central Goods and Services Tax Act, 2017 as well as Notification No. 12/2017-CT (R) serial no. 25 - summons dated 28.3.2018 is set aside - respondents shall drop the proceedings under the Finance Act, 1994 as well as under the CGST/SGST Acts sought to be initiated by virtue of the impugned summons to the extent the same is based upon item No. 4 (1) of the impugned circular dated 1 st March, 2018

Case reported in 2019-TIOL-15-HC-AHM-GST

Any ISSUES/ queries?

- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
 - 1800 1200 232
 - cbecmitra.helpdesk@icegate.gov.in
- GSTN Help Desk
 - <https://selfservice.gstsystem.in/> - Grievance redressal portal
 - Help Desk Number: 0120-4888999

Any ISSUES/ queries?

- Twitter Handles
- For General Questions
- https://twitter.com/askGST_Gol
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU