

GST Update

Weekly Update
02.05.2020

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 18.04.2020. No update was released on 25.04.2020. 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

**Transfer of amount from one account head to another in
Electronic Cash Ledger (Effective from 21st April 2020)**

Notification No. 37/2020 – Central Tax dated 28th April 2020

Rule 87 (13) of CGST Rules, 2017; Form GST PMT-09

- **Notification No. 37/2020 – Central Tax dated 28th April 2020**
 - Rule 87(13) and Form GST PMT-09 made effective w.e.f 21st April 2017
- Rule 87 (13) of CGST Rules, 2017: A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09.

- Taxpayers deposit money using challan and the paid amount gets credited in the particular head in the Electronic Cash ledger and the same can be utilized in settling liabilities of that head only. In case a taxpayer deposited any amount under a major head i.e. IGST, CGST, SGST/UTGST and Cess or minor head i.e. Tax, Interest, Penalty, Fee and Others, they can then utilize this amount for discharging their liabilities only under that major head and minor head. Sometimes, inadvertently, the taxpayer pays the amount under the wrong head and it cannot be used to discharge the liabilities which may be due in another head.
- In such cases taxpayers can claim the refund of the amount which may have been deposited under wrong head in GST by filing a refund application in FORM RFD-01 under the category “Excess balance in electronic cash ledger”. The process of filing refund claim and its disbursement can sometimes lead to blockage of funds for the taxpayer.

- **Form GST PMT-09** is now available on GST portal and it enables a taxpayer to make intra-head or inter-head transfer of amount available in Electronic Cash Ledger. A taxpayer can file GST PMT 09 for transfer of any amount of tax, interest, penalty, fee or others available under one (major or minor) head to another (major or minor) head in the Electronic Cash Ledger.
- Form GST PMT 09 provides flexibility to taxpayers to make multiple transfers from more than one Major/Minor head to another Major/Minor head if the amount is available in the Electronic Cash Ledger. To file Form GST PMT-09 taxpayers are required to login on GST portal with valid credentials and navigate to **Services > Ledgers > Electronic Cash Ledger > File GST PMT-09 For Transfer of Amount** option.

- **After Form GST PMT-09 is filed:**
- ARN is generated on successful filing of Form GST PMT-09.
- An SMS and an email is sent to the taxpayer on his registered mobile and email id.
- Electronic Cash ledger will get updated after successful filing of Form GST PMT-09.
- Filed form GST PMT-09 will be available for view/download in PDF format.

Personal Hearings in Virtual Mode in Customs, Central Excise and Service Tax

Judicial Cell (CBIC) Instructions F. No. 390/Misc/3/2019-JC dated
27th April 2020

- Personal hearing, in respect of any proceeding under Customs Act 1962, (and Central Excise Act, 1944 / Chapter V of Finance Act, 1994) given by various authorities, such as Commissioner (Appeals), original adjudicating authorities and Compounding authority, may be conducted through video conferencing facility.
- Broad guidelines to conduct such virtual hearing are being provided so that ongoing Customs work of appeals and adjudications are completed expeditiously for quick delivery of justice – through quasi-judicial proceedings and in compliance of overall directions given by Hon’ble Supreme Court under Article 142 of the Constitution of India in [Suo moto Writ \(Civil\) No. 5/2020](#)).

Guidelines for the conduct of virtual mode of personal hearing through video conferencing facility

- Consent: The party, either as an appellant or a respondent, shall give his consent to avail the personal hearing through video conferencing facility, at the time of filing his appeal or immediately after the issue of this instruction. He should also indicate his email address for correspondence etc
- Sharing of Link: The date and time of hearing along with a link for the video conference shall be informed in advance to the appellant/respondent or their consultant/ counsel and the concerned commissioner representing revenue through the official email or electronic media of the adjudicating/appellate authority, giving the details of officer-in-charge who would provide assistance to the party, for conducting the virtual hearing. This link should not be shared with any other person without the approval of the adjudicating/appellate authority.

Guidelines for the conduct of virtual mode of personal hearing through video conferencing facility (Contd)

- Proper Authorisation: The advocate/ consultant/ authorized representative, appearing on behalf of the party, in virtual hearing, should file his vakalatnama or authorization letter along with a copy of his photo ID card and contact details to the adjudicating/appellate authority through official e-mail address of the concerned authority after scanning the same. All persons participating in the video conference should be appropriately dressed and maintain the decorum required for such an occasion.
- Virtual hearing through video conference shall be held from the office of adjudicating/appellate authority or any official video conference facility set up in the office of the adjudicating/appellate authority.

Guidelines for the conduct of virtual mode of personal hearing through video conferencing facility (Contd)

- The virtual hearing through video conference will be conducted through available applications like VIDYO, or other secured computer network. The appellant/respondent should download such application in their computer system/laptop/mobile phone beforehand for ready connectivity during virtual hearing, and join the video conference at the time allotted to them.
- In case where the party/ his representative wishes to participate in the virtual hearing proceeding along with their advocate, they should do so under proper intimation to the adjudicating/ appellate authority. They may participate in virtual hearing along with their advocate/ authorized representative or join the proceedings from their own office.

Guidelines for the conduct of virtual mode of personal hearing through video conferencing facility (Contd)

- Record of Personal Hearing(PH): The submissions made by the appellant or their representative through the video conference will be reduced in writing and a statement of the same will be prepared, which shall be known as “record of personal hearing”. A soft copy of such record of personal hearing in PDF format will be sent to the appellant through email ID provided by advocate/appellant/ respondent, within one day of such hearing.
- If the, appellant/their representative wants to modify the contents of e-mailed record of personal hearing, they can do so and sign the modified record, scan and send back the signed record of personal hearing to the adjudicating/appellate authority.

Guidelines for the conduct of virtual mode of personal hearing through video conferencing facility (Contd)

- If, however, the appellant/their representative do not resend the above e-mailed record of personal hearing within 3 days of receipt of such e-mail, it will be presumed that they agree with the contents of e-mailed record of personal hearing and adjudicating authority/appellate authority will proceed to decide the case accordingly. No modification in e-mailed record of personal hearing will be entertained after 3 days of its receipt by appellant/their representative. The date of receipt of the email by the appellate/adjudicating authority will not be counted for this purpose.
- The record of personal hearing submitted in this manner shall be deemed to be a document for the purpose of Customs Act, 1962 in terms of section 138C of the said Act, read with Section 4 of the [information Technology Act, 2000](#).

Guidelines for the conduct of virtual mode of personal hearing through video conferencing facility (Contd)

- If the party/ advocate prefers to submit any document including additional submissions during the virtual hearing, he may do so by self-attesting such document and a scanned copy of the same may be emailed to the adjudicating/appellate authority immediately after virtual hearing and in no case after 3 days of virtual hearing. The date of the hearing will be excluded for this purpose.
- Any official representing the Department's side can also participate in the virtual hearing through video conferencing. The Commissionerate concerned shall inform the details in advance regarding such participation.



GST Portal Updates

New Functionality

- **Return- Filing Form GSTR-3B, through EVC**
- The taxpayers who are required to mandatorily use DSC to file Form GSTR-3B, now have an option to file it using EVC.
- This is applicable to for all categories of Companies (including Limited Liability Partnerships and PSUs), registered under Companies Act, 2013.
- This option is available for returns filed in Form GSTR-3B during the period starting from 21-04-2020 to 30-06-2020.

- **Return - Adjustment of negative ITC, while distributing credit to its units by ISD, through Form GSTR- 6**
- The persons registered as ISD can distribute ITC among its Units by filing Form GSTR-6, every month.
- Previously, ISD were not able to adjust negative ITC to its units, under a major head through ITC available under another major head. For example, if in a particular month, no ITC had accrued under a head but ITC reversal was required to be done under that head or in cases where no inward supplies under a head but receipt of Credit Note(s) under that head for past supplies etc.
- ISD would now be able to adjust negative ITC while distributing credit through Form GSTR 6.

- **Payment - Creation of Electronic Cash ledger and Liability Register for UIN holders**
- UIN holders can claim refund under section 55 of the GST Act. The facility of cash ledger and liability register was not provided to UIN holders earlier, as they were only claiming refunds.
- As there is no check on invoices reported in Form GSTR-11, for claiming refund, it was possible for the UIN holders to claim excess refund in Form GST RFD-10, inadvertently.
- In such a scenario, there was no mechanism in place for the UIN holder to deposit the excess refund claimed voluntarily or for the Tax Officer to create a demand against them.

New Functionality (Contd)

- **Payment - Creation of Electronic Cash ledger and Liability Register for UIN holders**
- A cash ledger and a Liability Register, for UIN holders, has now been created on the GST portal.
- A facility to make payment through challan has also been created in the Payment module for UIN holders.
- The UIN would now be able to make payment of the amount of excess refund claimed, on voluntary basis, through Form GST DRC-03. It would also be possible for the Tax Officer to post the liability in Liability Register (Part-II), if the UIN holder does not pay the excess amount voluntarily.



Legal Updates

Wrongful Detention – Tax not to be collected by Coercion

- **Case of Commercial Steel Company – Decision of Hon'ble Telangana High Court in the Writ Petition No. 2161 of 2020**

Facts

Petitioner had purchased goods from JSW Karnataka and goods were destined for Hyderabad. Goods intercepted at Jeedimetla in Telangana and notice of detention alleging “wrong destination” issued under Section 129 (3) of CGST Act. Though the goods were accompanied by tax paid documents which reflected payment of IGST, demand made for payment of CGST + SGST. It is contended by the petitioner that since at that time the petitioner could not contest it on account of a marriage in the family, on 12.12.2019 at Hyderabad, and since the driver of the vehicle was pressurizing for release of the vehicle, Petitioner was forced to pay the amount mentioned in the notice.

Wrongful Detention – Tax not to be collected by Coercion

Facts....Contd...

The petitioner further contended that the said collection of tax and penalty by the respondents is through coercion and threat in spite of the fact that the consignment was covered by all the requisite documents. It is alleged that when the goods were in transit in an inter-State sale, the respondents cannot detain the same and demand and collect the tax in the manner they have done which is arbitrary and without jurisdiction.

Wrongful Detention – Tax not to be collected by Coercion

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

The Hon'ble High Court held that -

- In our considered opinion, there were no good and sufficient reasons for detention by the 1st respondent of the vehicle and the goods which it was carrying when the transaction causing movement of the goods was inter-State in nature and the provisions of the SGST were not shown to have been violated. Also, there is no warrant to levy any penalty since it cannot be said that there is any wilfulness in the conduct of the dealer.
- It is settled law that no tax shall be levied or collected except by authority of Law as per Article 226 of the Constitution of India

Wrongful Detention – Tax not to be collected by Coercion

- In *Dabur India Ltd. vs. State of Uttar Pradesh*¹, the Supreme Court observed that a litigant cannot be coerced by the Government to make payment of duties which the litigant is contending not to be leviable. The Supreme Court held that though the State is entitled to enforce payment and to take all legal steps, it cannot be permitted to play dirty games with the citizens to coerce them in making payments when the citizens were not obliged to make them. It also observed that if any money is due to the Government it should not take extra legal steps to recover it.
- Therefore, in our considered opinion, the impugned action of the respondents in collecting the amount of Rs.4,16,447/- from the petitioner towards tax and penalty under the CGST and

Wrongful Detention – Tax not to be collected by Coercion

- SGST Act, 2017 under threat of detention of the vehicle carrying the said goods for an absurd reason (‘wrong destination’) when the vehicle in question carried all the proper documents evidencing that it was an inter-State sale transaction is clearly arbitrary, violative of Articles 14, 265 and 300-A of the Constitution of India.
- The 1st respondent is directed to refund the same with interest at the rate of 6% per annum from 13.12.2019 till the date of payment within a period of three (03) weeks from the date of receipt of copy of the order.

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