

GST Update

Weekly Update
16.11.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 09.11.2019. 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

Notification/ Circulars

- Five Central Tax Notifications issued
- One CBIC GST Circular issued
- One Press release issued
- Forms GSTR-9, GSTR-9C simplified
- Master instructions issued by DoR for defending cases filed before Hon'ble High Courts/ Supreme Court

- **Notifications No. 52, 53, 54 and 55 /2019 – Central Tax all dated 14th November, 2019**
- Due dates for GSTR-1, GSTR-3B and GSTR-7 have been extended for Jammu and Kashmir
- GSTR-7(July, 2019 to September, 2019) – 15.11.2019
- GSTR-1
 - For person having more than Rs. 1.5 Cr turnover and for period July, 2019 to September, 2019 – 15.11.2019
 - For Quarter July to September, 2019) – 30. 11,2019
- GSTR-3B(July, 2019 to September, 2019) – 20.11.2019

Due dates for GSTR-9, GSTR-9A and GSTR-9C

- **ROD Order No. 08/2019-Central Tax dated 14th November, 2019**
- Extends the last date for furnishing of annual return/reconciliation statement in FORM GSTR-9/FORM GSTR-9C for FY 2017-18 till 31st December, 2019 and for FY 2018-19 till 31st March, 2020
- The annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the 31st December, 2019, and
- The annual return for the period from the 1st April, 2018 to the 31st March, 2019 shall be furnished on or before the 31st March, 2020

- **Notification No. 56/2019 – Central Tax dated 14th November, 2019**
 - Taxpayers not required to provide
 - split of input tax credit availed on inputs, input services and capital goods and
 - HSN level information of outputs or inputs, etc.
- for the financial year 2017-18 and 2018-19.

Simplification of Annual Returns (Contd)

- Following fields in GSTR-9 made optional -
 - Table 12 & 13(Amendments), 15A to 15D(Refund details), 15E to 15G(Demands), 16A(Supplies received from composition taxpayer), 16B(Deemed supplies from principle to job worker), 16C(Deemed supplies which were sent on approval basis)
 - 4B to 4E; 5A to 5F- Option to fill net of credit/debit notes and amendments
 - 5D, 5E & 5F- Option to fill all(exempt, nil rated and non GST) in exempt category
 - 6A to 6E- Option to fill all credit in input only; split of input tax credit availed on inputs, input services and capital goods not required

Simplification of Annual Returns (Contd)

- Following fields in GSTR-9 made optional –
 - 6C & 6D- Option to fill details(RCM ITC) in table 6D only
 - 7A to 7H- Option to fill all details (Credit reversal) in table 7H only
 - 8A to 8D- Option to upload details of these tables (Details of ITC) in pdf format in GSTR-9C
 - 17 & 18(HSN wise details of inputs or outputs)
- For 2018-19, GSTR-2A as on 01.11.2019 will be auto-populated

Simplification of Annual Returns (Contd)

- Following fields in GSTR-9C made optional –
 - 5B to 5N; Make adjustments in 5O
 - 12B(ITC booked in earlier FY but availed in current FY), 12C (ITC booked in current FY but not availed) and 14- Optional
- In Part B- certification words “true and correct” replaced by “true and fair”

Simplification of Annual Returns (Contd)

- Part B of GSTR-9C
- In 1C, Cash flow statement is to be submitted only **if available**
- Certification by CA amended as under-
- In My/our opinion and to the best of my/our information and according to examinations of books of accounts including other relevant documents and explanations given to me/us, the particulars given in the said Form No GSTR9C are **true and fair correct** subject to.....

20% ITC restrictions

- **Circular No. 123/2019 dated 11.11.2019**
- Clarification about the new rule 36(4) related to availing input tax credit under the GST.
- The new rule 36(4) inserted vide Notification No. 49/2019 – Central Tax dated 09.10.2019, limits input tax credit claims to 20% of the “eligible amount” where in respect of invoices or debit notes, the details have not been uploaded by the suppliers in their respective GSTR-1s as required under section 37(1) of the CGST Act, 2017
- Effectively ITC shall not exceed 20% of the eligible credit reflected in GSTR-2A

20% ITC restrictions (Contd)

- Rule 36(4) inserted in the CGST Rules, 2017
 - Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in their GSTR-1 under section 37(1), shall not exceed 20 per cent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under section 37(1).
- However, concerns were raised in the Notification no. 49/ 2019, dated 09.10.19, over the method of calculating this 20% amount, the cut-off date and also whether it was to be calculated supplier-wise or on a consolidated basis. Therefore, the circular clarifies all these aspects.

20% ITC restrictions (Contd)

- The restriction is not imposed through the common portal and it is the responsibility of the taxpayer that credit is availed in terms of the said rule and therefore, the availment of restricted credit in terms of rule 36(4) of CGST Rules shall be done only on self-assessment basis by the tax payers.
- The 20% cap on the eligible Input Tax Credit will not be calculated supplier-wise and GST payers can avail the input tax credit on a consolidated basis.
- The provisions is applicable from 9th October, 2019. Invoices uploaded by the supplies can be seen by downloading GSTR-2A from GST Portal.

20% ITC restrictions (Contd)

- Rule 59(3) of the CGST Rules, 2017 specifies that the details of all outward supplies furnished by the supplier shall be made available electronically to the concerned registered persons i.e the recipients in Part A of GSTR-2A after the due date of filing of GSTR-1s.
- Thus every registered person is required to view the GSTR-2A for determining the due ITC and for filing his GSTR-3B.

20% ITC restrictions (Contd)

- For example, if a buyer is entitled to avail input tax credit of Rs 10 lakh on inward supplies (purchases) in a month but if his suppliers have uploaded the correct invoices in respect of supplies only to the extent of Rs 6 lakhs in the GSTR1 forms uploaded by them, then the buyer can avail ITC of Rs 6 lakh plus 20% of the eligible amount (20% of Rs. 6 lakhs) that is Rs 1.2 lakh.
- Therefore the buyer could claim a maximum ITC of Rs 7.2 lakh in the month. The balance can be claimed only after matching.

20% ITC restrictions (Contd)

- The total amount of ITC, even after the addition of 20% input tax credit over and above the eligible amount where invoice matching has been done, cannot exceed the total amount of input tax credit that can be claimed.
- For example, if a buyer is entitled to ITC of Rs 10 lakh on inward supplies and invoice matching is done in case of Rs 9 lakh then as per the 20% cap rule, he is also entitled to avail 20% over and above the eligible amount of Rs 9 lakh, which is 1.8 lakh in this case (20% of eligible amount of Rs. 9 lakhs). However, this can take the total amount of ITC to be availed by him in the month to Rs 10.8 lakh, Rs 80,000 more than the total ITC amount that can be claimed. The new circular has clarified that in any case ITC claims will be restricted to the total amount due ie. Rs.10 lakhs only, obviously.

20% ITC restrictions (Contd)

- The cap of 20% on availing input tax credit under the GST rule 36 (4) introduced on October 9th 2019 will not be applicable on following three cases:
 1. ITC in respect of the IGST paid on imports and these importers can directly avail the input tax credit;
 2. The cap of 20% will also not apply to those cases where GST has been paid under the Reverse Charge Mechanism (RCM) and;
 3. The ceiling of 20% on availing ITC will also not apply on Input Service Distributors (ISD), these are those businesses that receive invoices on behalf of the services used by their branches and subordinate offices.

20% ITC restrictions (Contd)

- The calculation would be based on only those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision (say section 17(5) of CGST Act) would not be considered for calculating 20 per cent of the eligible credit available.

20% ITC restrictions (Contd)

- The amount of input tax credit in respect of the invoices / debit notes whose details have not been uploaded by the suppliers shall not exceed 20% of the eligible input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under section 37(1) as on the due date of filing of the returns in FORM GSTR-1 of the suppliers for the said tax period. The taxpayer may have to ascertain the same from his auto populated FORM GSTR 2A as available on the due date of filing of FORM GSTR-1 under section 37(1).

Defence against WPs/PILs relating to GST

- A number of writ Petitions/ PILS are being filed in Hon'ble Supreme Court/ High Courts challenging various aspects of GST law.
- Dept of Revenue has issued master instructions vide letter F.No. S-29012/12/2017 dated 14th August, 2019 on defense against writ petitions / PILs relating to GST to all States as well as Central GST formations to comply with for efficaciously defending the interest of government before the court(s).

Defence against WPs/PILs relating to GST (Contd)

- **Earlier Instructions**
- M.F. (D.R.) (State Taxes Division) Instruction No. S-29012/12/2017-ST-1- DoR dated 27-11-2017;
- C.B.I. & C. Instructions F. No. 275/15/2018-CX.8A, dated 4-7-2018 and F.No. 280/05/2018-CX. 8A, dated 23-5-2018
- Member (Legal), CBEC's D.O.Letter F. No 275/ 65/ 2013-CX.8A dated 5th September, 2017
- Letter F. No 275/ 65/ 2013-CX.8A dated 19th June, 2015 from OSD(Legal)- "authorization" of the Commissioners to represent the Union of India and Others in matters before the High Court
- Letter F.No.280/26/2018-CX.8A dated 23rd October, 2018- Defence on behalf of National Anti-Profiteering Authority (GST), New Delhi before Hon'ble Courts

Defence against WPs/PILs relating to GST (Contd)

- **Nodal cells** are created in CBIC to effectively coordinate and monitor all cases before Hon'ble High Courts and Supreme Courts
- **Issuance of Unique Index Number** - Commissioner (Legal)/Commissioner (DLA), CBEC will assign a unique Index Number to all High Court(s)/Supreme Court cases respectively, filed under GST regime, which will remain unchanged and may be used for all future references/correspondences.
- **Issuance of Authorisation to defend UoI, States & other respondent(s)** - To defend UoI and other Central Government respondents in GST related matters before the High Court(s), Commissioner (Legal), CBIC will issue Authorisation in favour of the jurisdictional Principal Commissioner/Commissioner.

Defence against WPs/PILs relating to GST (Contd)

- **Policy Comments on the impugned issue** - To ensure uniformity of views in all cases filed before the High Court(s) under the GST regime filed across the country, it is desirable that comments should be sought directly from the concerned Wing of the Department as per Table below.

Sl. No.	Designation	Area of Work Allocated
1.	Commissioner (GST)	<ul style="list-style-type: none"> • Notifying jurisdiction of formations of GST; • All CGST Act related work <i>except</i> in respect of Chapter V (Input Tax Credit), Chapter XIV (Inspection, Search, Seizure and Arrest), Chapter XVII (Advance Ruling), Chapter XVIII (Appeals & Revision), Chapter XIX (Offences & Penalties), and Chapter XX (Transitional Provisions); • All IGST Act related work <i>except</i> in respect of Chapter V (Place of supply).

Defence against WPs/PILs relating to GST (Contd)

Sl. No.	Designation	Area of Work Allocated
2.	Commissioner (Service Tax)	All IGST Act related work, in respect of Chapter V (Place of supply).
3.	Commissioner (Central Excise)	All CGST Act related work in respect of Chapter V (Input Tax Credit) and Chapter XX (Transitional Provisions).
4.	Commissioner (Inv-GST)	All CGST Act related work in respect of Chapter XIV (Inspection, Search, Seizure and Arrest) and Chapter XIX (Offences & Penalties).

Defence against WPs/PILs relating to GST (Contd)

Sl. No.	Designation	Area of Work Allocated
5.	Commissioner (Legal)	All CGST Act related work in respect of Chapter XVII (Advance Ruling) and Chapter XVIII Appeals & Revision (Only in respect of HC & SC).
6.	Commissioner (IT & Compliance Verification)/ Member (IT)	Coordination with GSTN.
7.	Joint Secretary (Review)	All CGST Act related work in respect of Chapter XVIII-Appeals and Revision (Except HC & SC).

Defence against WPs/PILs relating to GST (Contd)

Sl. No.	Designation	Area of Work Allocated
8.	Commissioner (Customs & EP)	GST related Customs Work
9.	Joint Secretary (Customs)	Work related to IGST Customs Interface
10.	Commissioner (PAC)	Audit related work in GST by CAG
11.	Joint Secretary (Drawback)	GST related work pertaining to Drawback and Export Promotion Schemes

Defence against WPs/PILs relating to GST (Contd)

Sl. No.	Designation	Area of Work Allocated
12.	Joint Secretary (TRU-I)	Matters pertaining to tax rate on goods
13.	Joint Secretary TRU-II	Matters pertaining to tax rate on services
14.	Joint Secretary (Revenue), Department of Revenue	Work related to Constitution amendment act, GST (Compensation to States) Act, UTGST Act, Compensation Cess and erstwhile Central Sales Tax Act.

Blocking/Unblocking of E way bill

- <https://docs.ewaybillgst.gov.in/Documents/unblock.pdf>
- E-Way Bill system will have a new feature of blocking/unblocking of the taxpayers from next month, as per the rule. That is, if the GST taxpayer has not filed Return 3B for the last two successive months in GST Common portal, then that GSTIN will be blocked for generation of e-way bill either as consignor or consignee.
- Now, this month, the tax payer will be alerted with a cautionary message while generating the eWaybills, in case Return 3B for the past 2 successive months of the consignor/consignee GSTIN has not been filed. However, from next month onwards, such GSTINs will be blocked.

Blocking/Unblocking of E way bill (Contd)

- On Filing of the Return-3B in the GST Common Portal, the GSTIN will get automatically updated as 'Unblock' within a day in the e-Waybill system and the tax payer can continue with e-way bill generation without any cautionary message.
- However, if the status is not updated in e-waybill system, then the taxpayer can do it by going to the e-Waybill portal and clicking on option Search-> Update Block Status. Enter the GSTIN, followed by the CAPTCHA and click on GO.
- The user can click on the button: 'Update Unblock Status from GST Common Portal'. This will fetch the status of filing from the GST Common Portal and if filed, the status in e-Waybill system will subsequently get updated.

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_GoI
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU