

# GST Update

Weekly Update  
04.07.2020

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 27.06.2020. 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

# Revenue collection

- <http://gstcouncil.gov.in/sites/default/files/Revenue-collection-June-2020.pdf>
- The gross GST revenue collected in the month of June 2020 is Rs. 90,917 crore of which CGST is Rs. 18,980 crore, SGST is Rs. 23,970 crore, IGST is Rs. 40,302 crore (including Rs. 15,709 crore collected on import of goods) and Cess is Rs.7,665 crore (including Rs. 607 crore collected on import of goods).
- During the month of June, returns of February, March, and April 2020 have also been filed in addition to some returns of May 2020 since Government has allowed a relaxed time schedule for filing of GST returns. Some returns of May 2020, which would have otherwise got filed in June 2020, will get filed during first few days of July 2020.

## Revenue collection (Contd)

- The revenues during the financial year has been impacted due to COVID-19, firstly due to the economic impact of the pandemic and secondly due to the relaxations given by the Government in filing of returns and payment of taxes due to the pandemic.
- The GST collections for the month of April was Rs. 32,294 crore which was 28% of the revenue collected during the same month last year and the GST collections for the month of May was Rs. 62,009 crore which was 62% of the revenue collected during the same month last year.
- The GST collections for the first quarter of the year is 59% of the revenue collected during the same quarter last year. However, a large number of taxpayers still have time to file their return for the month of May 2020

# Waiver of late fees

- **Notification No. 57/2020 – Central Tax dated 30<sup>th</sup> June 2020** ( Amends Notification No. 52/2020-CT dated 24<sup>th</sup> June 2020)
- Conditional waiver of late fees for the period from July 2017 to July 2020
- If the turnover is more than 5 crore rupees in the preceding financial year and you need to file a return (GSTR-3B) with tax liabilities, the late fees payable is Rs. 500 per return (Rs. 250/ under CGST + Rs. 250/ under SGST per return) for the months of May 2020 to July 2020.
- In case of NIL return (GSTR-3B) late fees is zero / waived off even if the turnover is more than Rs. 5 Crore
- If the Turnover is Less than 5 crore rupees in the preceding financial year, taxpayers have NIL return are liable for NIL late fees.
- But if tax liability is payable then late fees are Rs. 500
- The important condition is that such returns should be filed before 30<sup>th</sup> September 2020.

## **Filing NIL Form GSTR-1 through SMS on GST Portal**

Notification No. 58/2020 – Central Tax dated 1<sup>st</sup> July 2020;

Rule 67A of CGST Rules 2017

# Filing of Nil GSTR-1 by SMS

- Manner of furnishing of GSTR-1 by short messaging service facility:
- NIL details of outward supplies under section 37 in GSTR 1 can be filled through short messaging service (SMS). For this, Rule 67A substituted in CGST Rules, 2017 vide Notification No. 58/2020 – Central Tax dated 1<sup>st</sup> July 2020
- *Explanation. - For the purpose of this rule, a Nil return or Nil details of outward supplies shall mean a return under section 39 or details of outward supplies under section 37, for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B or FORM GSTR-1, as the case may be.*

- **Notification No. 58/2020 – Central Tax dated 1<sup>st</sup> July 2020**
- Rule 67A substituted as under:
- “67A. Manner of furnishing of return or details of outward supplies by short messaging service facility.- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service using the registered mobile number and the said return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility.”



## Filing of Nil GSTR-1 by SMS (Contd)

- A taxpayer may now file NIL Form GSTR-1, through an SMS, apart from filing it through online mode, on GST Portal. To file NIL Form GSTR-1 through SMS, the taxpayer must fulfil following conditions:
  - They must be registered as Normal taxpayer/ Casual taxpayer/ SEZ Unit / SEZ Developer.
  - They have valid GSTIN.
  - Phone number of Authorized signatory is registered on the GST Portal.
  - No data should be in saved or submitted stage for Form GSTR-1 on the GST Portal, related to that respective month.
  - NIL Form GSTR-1 can be filed anytime on or after the 1st of the subsequent month for which the return is to be filed.
  - Taxpayer should have opted for the filing frequency as either monthly or quarterly.

- NIL Form GSTR-1 for a tax period must be filed by the taxpayer if:
  - There are no Outward Supplies (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the return is being filed.
  - No Amendments is to be made to any of the supplies declared in an earlier return.
  - No Credit or Debit Notes to be declared/amended.
  - No details of advances received for services to be declared or adjusted.

## Filing of Nil GSTR-1 by SMS (Contd)

- **Steps to File Nil Form GSTR 1 through SMS is as below:**
- Send SMS to **14409** number to file Nil Form GSTR-1 - **NIL** space **Return Type** space **GSTIN** space **Return Period**
- **For Monthly Filing for Tax Period April 2020:** NIL R1 07AQDPP8277H8Z6 042020
- **For Quarterly Filing for Tax Period Apr-Jun 2020:** NIL R1 07AQDPP8277H8Z6 062020
- Send SMS again on the same number **14409** with Verification Code (For Example: Verification Code received here is 324961) to confirm filing of Nil Form GSTR-1.- **CNF** space **Return Type** space **Code** - CNF R1 324961
- After successful validation of "Verification Code", GST Portal will send back ARN to same mobile number and on registered e-mail ID of the taxpayer to intimate successful Nil filing of Form GSTR-1 .
- All authorized representatives, for a particular GSTIN can file NIL Form GSTR-1 through SMS.



## Legal Updates

# Gujarat High Court upholds the constitutional validity of Rule 142(1)(a) of the CGST Rules

- **Mahavir Enterprise Vs ACST reported in 2020-TIOL-1118-HC-AHM GST**

- **Facts**

- It is the case of the department that the writ applicant is involved in bogus billing transactions without any physical movement of the goods - Writ application filed praying to declare the Rule 142(1)(a) of CGST/GGST Rules, being ultra vires and de hors the Act and violative of Articles 14 and 19(1)(g) of the Constitution of India, to the extent it says notice issued under section 122 - Writ applicant seeks to challenge the legality and validity of the show cause notice dated 30th November 2019 issued by the respondent No.1 under Section 122(1) of the Act calling upon the writ applicant to show cause why an amount of Rs.6,87,68,821/- should not be recovered for the alleged contravention of the provisions of the Act and the Rules.

# Gujarat High Court upholds the constitutional validity of Rule 142(1)(a) of the CGST Rules

- **The Hon'ble High Court held as under-**
- SCN is yet to be adjudicated. It also needs to be stated at this stage that there is also a challenge to the constitutional validity of Rule 142(1)(a) of the CGST Rules on the ground that the same travels beyond the provisions of the Act and is a result of excessive delegation of powers -Bench only proposes to consider whether the impugned show cause could be termed as per se without jurisdiction and a nullity and the validity of Rule 142(1)(a) of the Rules. In sofar as scope of judicial review, against the show cause notice, is concerned, in the case of Standard Chartered Bank and others vs. Directorate of Enforcement and others = 2006-TIOL-16-SC-FERA-LB , it is held that ordinarily the Court should be reluctant to interfere with the show cause notice unless the notice is shown to have been issued apparently without any authority of law.

# Gujarat High Court upholds the constitutional validity of Rule 142(1)(a) of the CGST Rules

- High Court can interfere under Article 226 of the Constitution of India against a show cause notice where the same is issued by an authority in exercise of the power which is absent; the facts does not lead to commission of any offence; the show cause notice is otherwise without jurisdiction; it suffers from incurable infirmity; against the settled judicial decisions or the decisions of the Tribunal and bereft of material particulars justifying commission of offence - A rule under delegated legislation can be held to be ultra vires the statutory provisions of the Act if it is shown (i) that it is beyond the scope of or in excess of the rulemaking power of the delegate conferred under the Act, or (ii) that it is in conflict with or repugnant to any enactment in the Act - It may be noted that Section 164 of the Act confers power on the Central Government to frame the rules -

# Gujarat High Court upholds the constitutional validity of Rule 142(1)(a) of the CGST Rules

- Under Section 164 of the Act, the Central Government has the power to make rules generally to carry out all or any of the purposes of the Act - In the opinion of the Bench, Rule 142(1)(a) of the Rules, 2017 is valid and is in no manner conflict with any of the provisions of the Act.
- The challenge to the legality and validity of the show cause should fail having regard to the scope of judicial review and the challenge to the validity of Rule 142(1)(a) of the Rules should also fail - Writ application fails and is hereby rejected.





**THANK YOU**