

GST Update

Weekly Update
05.09.2020

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 22.08.2020. It supplements the earlier GST Updates. No Updates were released on 29.08.2020.
- 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

Amendment of section 50



- **Notification No. 63/2020 – Central Tax dated 25th August 2020**
- Provisions of Section 100 of the Finance Act 2019 (Interest on delayed payment) shall come into force w.e.f 1st September 2020
- In Section 50(1) of the CGST Act, the following proviso inserted, namely:—
- *“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”*

Due date for filing FORM GSTR-4 for financial year 2019-2020

- **Notification No. 64/2020 – Central Tax dated 31st August 2020**
- Due date for filing FORM GSTR-4 (Composition taxpayers) for financial year 2019-2020 -
- Extended to 31.10.2020

Due dated under section 171 of CGST Act 2017

- **Notification No. 65/2020 – Central Tax dated 1st September 2020**
- Extends due date of compliance under Section 171 which falls during the period from "20.03.2020 to 29.11.2020" till 30.11.2020. Amends notification no. 35/2020-Central Tax dt. 03.04.2020; Following proviso inserted after clause (i)
- *“Provided that where, any time limit for completion or compliance of any action, by any authority, has been specified in, or prescribed or notified under section 171 of the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of November, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended up to the 30th day of November, 2020.”*

ITC Statement Form GSTR-2B

- <https://www.gst.gov.in/newsandupdates/read/396>
- ITC Statement Form GSTR-2B, made available on GST Portal for taxpayers
- GSTR-2B is an **auto-drafted Input Tax Credit (ITC) statement** generated for every recipient, on the basis of the information furnished by their suppliers, in their respective Form GSTR-1 & 5 and Form GSTR-6 filed by ISD.
- Taxpayers can now **reconcile data** generated in Form GSTR-2B, with their own records and books of accounts. Using this reconciliation, they can now file their Form GSTR 3B and they can ensure that
 - no credit is taken twice,
 - credit is reversed as per law, &
 - tax on reverse charge basis is paid.

- Generated Form GSTR-2B consists of:
 - A summary of ITC available as on the date of its generation and is divided into credit that can be availed and credit that is to be reversed (Table 3)
 - A summary of ITC not available and is divided into ITC not available and ITC reversal (Table 4)
- It is a static statement, generated once on 12th of following month.
 - It consists of all documents filed by suppliers/ ISD in their Form GSTR-1, 5 & 6, between 00:00 hours on 12th day of preceding month to 23:59 hours, on 11th day of current month. Thus, statement generated on 12th of August will contain data from 00:00 hours of 12th July to 23:59 hours of 11th

- The details filed in GSTR-1 & 5 (by supplier) & GSTR-6 (by ISD) would reflect in the next open GSTR-2B of the recipient irrespective of supplier's/ISD's date of filing. For e.g, if a supplier files a document INV-1 dt. 15.07.2020 on 11th August, it will get reflected in GSTR-2B of July (generated on 12th August). If the document is filed on 12th August 2020 the document will be reflected in GSTR-2B of August (generated on 12th September).
- It also contains information on imports of goods from the ICEGATE system including data on imports from Special Economic Zones Units / Developers. (This will be made available in GSTR-2B from 12th September 2020 onwards). Reverse charge credit on import of services is not part of this statement and need to be entered by taxpayers in Table 4(A) (2) of FORM GSTR-3B.



GST Portal Updates

GSTR-3B filing made easier



GSTR 3B filing made easier

(for monthly GSTR-1 filers)

Generating PDF for system computed liabilities explained in simple steps :



File GSTR-1 for the month



System computed PDF to be made available on GSTR-3B dashboard



Download and view the system computed PDF of GSTR-3B (Table-3 mentioning liabilities)



File GSTR-3B with the assistance of system computed PDF, after verifying the values

- **Generating PDF from Form GSTR-1 for filing Form GSTR-3B for Monthly filer**
- A functionality to generate PDF statement has been made available to taxpayers, registered as a Normal taxpayer, SEZ Developer, SEZ unit and casual taxpayer, filing monthly GSTR-1 statement, on their GSTR-3B dashboard.
- The PDF contains system computed values of Table 3 of Form GSTR-3B, prepared on the basis of values reported by the taxpayer, in their GSTR-1 statement, for the said tax period.
- This PDF will be available from tax period of August 2020, onwards, containing the information of GSTR-1 filed by them on or after 4th September 2020.

New Functionality (Contd)



- Following Tables of Form GSTR-3B will be auto drafted, on basis of values reported in GSTR-1 statement, for the said period:
 - 3.1(a) - Outward taxable supplies (other than zero rated, nil rated and exempted)
 - 3.1(b) - Outward taxable supplies (zero rated)
 - 3.1(c) - Other outward supplies (Nil rated, exempted)
 - 3.1(e) - Non-GST outward supplye
 - 3.2 - Supplies made to un-registered persons
 - 3.2 - Supplies made to composition taxable persons
 - 3.2 – Supplies made to UIN holders

New Functionality (Contd)

- Some important points related to this functionality are:
 - In case, any of the above values is negative as per GSTR-1 statement, these figures would be mentioned as Zero in the auto-drafted PDF and will not be carried forward to next period.
 - Turnover & tax are computed after taking into account credit notes, debit notes, amendments and advances, if any.
 - Only filed GSTR-1 statements are considered for auto-population of the values in Form GSTR-3B.
- This PDF is only meant for assistance of taxpayers, who should verify & file their Form GSTR-3B, with correct values

New Functionality

- **Provision to make amendment, multiple times, in Table 4 of Form GSTR-8**
- Earlier, if no action was taken on TCS details, auto-populated in TDS/TCS credit form, by the supplier or if the same were rejected by them in the said form, the TCS (e-commerce operators) could amend the details only once.
- Based on requests received from stakeholders, the restriction of amending the transaction details only once, in the table 4 (i.e. amendment table) of Form GSTR-8, has now been removed.
- Thus, details of table 4 (i.e. amendment table) of Form GSTR-8, can now be amended multiple times, by e-commerce operators liable to collect tax at source under section 52, while filing their Form GSTR-8.

New Functionality

- **TCS facility extended to composition taxpayers**
- The taxpayers under composition scheme, who are permitted to make supplies through E-Commerce Operators, e.g. Restaurant Services, will now be able to view and take necessary actions in their TDS/TCS credit received form.
- E-commerce operators would now be able to add GSTIN of such composition suppliers, in their Form GSTR-8 and file the Form.
- The amount of tax collected at source, reported by E Commerce Operators in their Form GSTR-8, will now be populated to 'TDS /TCS credit received' form of respective composition taxpayers.

New Functionality (Contd)

- **TCS facility extended to composition taxpayers**
- The amount so reported by e-commerce operators will now be available to respective composition taxpayers, for accepting or rejecting the same, in their 'TDS and TCS credit received' form.
- For accepted transactions, the amount would be credited to cash ledger of composition taxpayers, after successful filing of 'TDS/ TCS Credit received' form.
- For rejected transactions, the amount would be shown to e-commerce operators for correction.

- **Delinking of Credit Note/Debit Note from invoice, while reporting them in Form GSTR 6**
- Till now, original invoice number was mandatorily required to be quoted by the taxpayers, while reporting a Credit Note or Debit Note in Form GSTR-6.
- The taxpayers have now been provided with a facility on the GST Portal to:
 - Report in their Form GSTR-6, single credit note or debit note issued in respect of multiple invoices
 - Choose the note supply type as Regular, SEZ, DE, Export etc., to identify the table to which such credit note or debit note pertains

New Functionality (Contd)

- **Delinking of Credit Note/Debit Note from invoice, while reporting them in Form GSTR 6**
 - Place of Supply (POS) against each credit note or debit note, to identify the supply type i.e. Intra-State or Inter-State
 - Debit /Credit Notes can be declared with tax amount, but without any taxable value also i.e. if credit note or debit note is issued for difference in tax rate only, then note value can be reported as 'Zero'. Only tax amount will have to be entered in such cases.
 - Similar changes have been made while reporting amendments to credit note or debit note.



Legal Updates

Interest under section 50

- **Prasanna Kumr Bisoi Vs UOI; Orissa High Court**
- The grievance of the petitioner in this Writ Petition is that he has filed the returns for the financial year 2017-18, 2018-19 and 2019-20 at belated stage and availed Input Tax Credit at the time of filing GSTR-3B returns, as Works Contractor. The Superintendent, Central GST and Central Excise demanded interest under Section 50 (1) of the C.G.S.T Act, 2017 in respect of the above three financial years for Rs.2,24,487/- on 04.03.2020 on the head that demand of interest is payable on ITC set off. Hence the present Writ Petition.

Held By Orissa HC:

In the 39th meeting of GST Council held on 14.03.2020 it was decided that interest for delay in payment of GST is to be charged on the Net Cash Tax Liability w.e.f. 01.07.2017 retrospectively but not in the Input Tax Credit. Hence, this Court disposes of this Writ Petition with a direction to the Superintendent, Central GST and Central Excise, Berhampur to dispose of the representation filed by the petitioner on 06.05.2020 under Annexure:3 keeping in view the decision taken in the 39th meeting of GST Council, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of this order

Service by E Mail

- **KU Niyas Vs Assistant Commr, State Tax ; Kerala High Court**
- Held: As per Section 169(c) and (d) of the GST Act the service of any communication to the e-mail address provided by an assessee at the time of registration, as also by making available the communication in the common portal of the department, is to be treated as an effective communication under the statute.
- The petitioner cannot wish away the fact that the assessment orders were brought to his notice on 25.11.2019 and 27.11.2019 respectively. Inasmuch as the returns filed by the petitioner for the period covered by the assessment orders were belated in that they were filed more than 30 days after the date of service of the orders on the petitioner via the web portal of the department, he cannot aspire for the benefit of withdrawal of the assessment orders as mandated under Section 62 of the GST Act.

Refund of unutilized credit by SEZ unit

- **Britannia Industries Ltd Vs Uoi; 2020-TIOL-1495-HC-AHM-GST**
- GST Refund - Being a SEZ unit making zero rated supplies under the GST, the petitioner was not able to utilize the credit of the Input Tax Credit of IGST from its ISD and it was lying unutilized in the Electronic Credit Ledger of the petitioner - accordingly, petitioner filed an application for refund in Form GST RFD-01A with regard to the credit of IGST distributed by ISD for the services pertaining to the SEZ unit for an amount of Rs.99,05,156/- for the year 2018-2019 - Consequently, by an order, the refund was rejected - Petitioner is, therefore, before the High Court - Counsel for Revenue submitted that in view of the provision of section 54 of the CGST Act read with Rule 89 of the CGST Rules, 2017 only a supplier of goods or services can file an application for refund and not recipient of the services; that the petitioner is a recipient of service; the petitioner is not entitled to get the refund under the provisions of the CGST Act read with the CGST Rules

Refund of unutilized credit by SEZ unit (Contd)

- Gujarat HC Held: Rule 89 of the CGST Rules provides for procedure for application for refund of tax, interest, penalty, fees and prescribes that in respect of supplies to a SEZ unit, the application for refund has to be filed by the supplier of goods or services - The contention of the respondents that as the petitioner is not the supplier of the goods and services, the petitioner would not be entitled to file application for refund is not tenable because in facts of the present case, input service distributor i.e. ISD as defined under section 2(61) of the CGST Act is an office of the supplier of goods and services which receives tax invoices issued under section 31 of the CGST Act towards the receipt of input services and issues a prescribed document for the purpose of distributing the credit of CGST, SGST or IGST paid on such goods or services –
- Therefore, in facts of the case, it is not possible for a supplier of goods and services to file a refund application to claim the refund of the input tax credit distributed by ISD –

Refund of unutilized credit by SEZ unit (Contd)

- This aspect is further fortified by notification no. 28/2012 dated 20th June, 2012 which was in connection with service tax attributable to the services used in more than one unit to be distributed pro-rata on the basis of the turnover during the relevant period of the concerned unit to the sum total of the turnover of all the units and similarly, in facts of the present case also, credit of service tax is distributed to all the units by the ISD and, therefore, the claim of refund made by the SEZ unit of the petitioner is required to be granted - In view of the decision in case of M/s. Amit Cotton Industries, the petitioner is entitled to claim refund of the IGST lying in the Electronic Credit Ledger as there is no specific supplier who can claim the refund under the provisions of the CGST Act and the CGST Rules as ITC is distributed by the ISD - The impugned order is quashed and set aside - The respondents are directed to process the claim of refund made by the petitioner within three months for unutilized IGST credit lying in Electronic Credit Ledger under section 54 of the CGST Act, 2017.



THANK YOU