

GST Update

Weekly Update
12.10.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 05.10.2019. 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

- Six Central Tax notification issued;
- Nine Central tax CBIC circulars issued;
- E invoice concept note and E invoice template released by GSTN

- <https://www.gst.gov.in/newsandupdates/read/326>
- The GST Council has approved introduction of 'E-invoicing' or 'electronic invoicing' in a phased manner for reporting of business to business (B2B) invoices to GST System, starting from 1st January 2020 on voluntary basis.
- Standard for the same has been finalized after consultation with trade/industry bodies as well as ICAI
- The machine readability and uniform interpretation is the key objective. This is also important for reporting the details to GST System as part of Return. Apart from the GST System, adoption of a standard will also ensure that an e-invoice shared by a seller with his buyer or bank or agent or any other player in the whole business eco-system can be read by machines and obviate and hence eliminate data entry errors.

E-Invoice System concept note, Standard, Schema and Template (Contd)

- The GST Council approved the standard of e-invoice in its 37th meeting held on 20th Sept 2019.
- Standards are generally abstruse and thus an explanation document is required to present the same in common man's language.
- The present document is an attempt to explain the concept of e-invoice, how it operates and basics of standards.
- It also contains FAQs which answer the questions raised by people who responded to the draft e-invoice standard used for public consultation. It is expected that the document will also be useful for the taxpayers, tax consultants and the software companies to adopt the designed standard.

Features of Making Payment on Voluntary Basis (Form GST DRC-03) on GST Portal

- <https://www.gst.gov.in/newsandupdates/read/327>
- **Making Voluntary Payment on GST Portal**: A facility is given to taxpayers to make payment on **voluntary basis**, through **Form GST DRC-03** (refer Rule 142(2) or 142(3) of the CGST Rules, 2017). Login into GST Portal and navigate to Services > User Services > My Applications and Select the **Intimation of Voluntary Payment - DRC – 03**.
- **When to make Payment Voluntary Payment**: Payment can be **voluntarily** made by taxpayer for a self-ascertained liability or in response to the show cause notice (SCN) raised by the tax authorities, u/s 73 or 74 of the CGST Act, 2017, within 30 days of issuance of SCN or even before issuance of the SCN.
- **Partial Payment not allowed**: GST Portal **does not allow** for making **partial** payments of the amount stated in the SCN.

Features of Making Payment on Voluntary Basis (Form GST DRC-03) on GST Portal (Contd)

- **Cause of Payment**: Payments through Form GST DRC-03 can be made for any causes like Audit, Investigation, Voluntary Payment, SCN, Annual Return, Reconciliation Statement or Others.
- **Saving Draft DRC 03 Application**: Draft of Application for intimation of voluntary payment can be saved for a maximum period of 15 days. If the same is not filed within 15 days, the saved draft will be purged.
- **Using Payment Reference Number**: If payment has been made and payment reference number (PRN) has been generated, but application in Form GST DRC-03 has not been filed, then in such cases, application available in **‘My Saved Applications’** need to be selected and using PRN already generated, it may be filed. However, if a period of fifteen days has elapsed, then, details in Form need to be filled up again. PRN generated already can be used for filing the application.

Features of Making Payment on Voluntary Basis (Form GST DRC-03) on GST Portal (Contd)

- **Filing Form GST DRC 03**: Taxpayers are required to **file** Form GST DRC-03 using DSC or EVC, as the case may be, after making payment. The status will change to “**Pending for approval by Tax officer**”. However, it may be noted that, no approval of tax officer is needed on earlier application, while making **another** voluntary payment using FORM GST DRC 03.
- **Acknowledgment by Tax Official**: Upon filing of Form GST DRC-03, the tax officer will **issue an Acknowledgement in Form GST DRC-04**(Acknowledgement of Acceptance of voluntary payment). There is **no bar** on making **another payment on voluntary basis** by a taxpayer, **pending** issuance of acknowledgement by the tax officer.

Due Dates

- **Notification No. 44/2019-Central Tax, Dated 09-10-2019**

- Due date of GSTR-3B for October, 2019 to March, 2020 notified to be 20th of the succeeding month
- Payment of taxes for discharge of tax liability as per FORM GSTR-3B as well before 20th of succeeding month

- **Notification No. 45/2019-Central Tax, Dated 09-10-2019**

- Due date of GSTR-1 if aggregate turnover is up to Rs. 1.5 Cr - Quarterly Oct-Dec 19 by 31st Jan, 2020 and Jan-Mar, 2020 by 30th April 2020

- **Notification No. 46/2019-Central Tax, Dated 09-10-2019**

- Due date of GSTR-1 if aggregate turnover is exceeds Rs. 1.5 Cr - 11th of succeeding month

- **Notification No. 47/2019-Central Tax, Dated 09-10-2019**
 - GST Annual Return GSTR- 9 under section 44(1) of CGST Act, 2017 read with rule 80(1) of CGST Rules, 2017, in respect of financial years 2017-18 and 2018-19
 - Shall be voluntary if turnover is less than Rs 2 Cr.
 - Return shall be deemed to be furnished on the due date if it has not been furnished before the due date
- **Notification No. 48/2019-Central Tax, Dated 09-10-2019**
 - Extension of due date for GSTR-1, GSTR-7 and GSTR-3B (only) for Jammu and Kashmir

- **Notification No. 49/2019 – Central Tax dated 09.10.2019**
- 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).
 - Effectively ITC shall not exceed 20% of the eligible credit reflected in GSTR-2A

Amendment to CGST Rules, 2017 (Contd)

- **Rule 61(5): Sub-rule 5 substituted in Rule 61 w.e.f 1st July, 2017**
- Where the time limit for furnishing of details in FORM GSTR-1 under section 37 or in FORM GSTR-2 under section 38 has been extended, the return specified in section 39(1) shall, in such manner and subject to such conditions as the Commissioner may, by notification, specify, be furnished in FORM GSTR-3B electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:
- Where a return in FORM GSTR-3B is required to be furnished by a person then such person shall not be required to furnish the return in FORM GSTR-3.

Amendment to CGST Rules, 2017 (Contd)

- In rule 83A, in sub-rule (6), for clause (i), the following clause shall be substituted, namely:-
- “(i) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule is required to pass the examination within the period as specified in the second proviso of sub-rule (3) of the said rule.”.
- Thus, examination prescribed in rule 83A is to be passed only by those GST Practitioners who are covered under rule 83(1)(b) of CGST Rules, 2017 i.e those who were earlier enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years.

Amendment to CGST Rules, 2017 (Contd)

- In rule 97, - (a) after sub-rule (7), with effect from the 1st July, 2017, the following sub-rule 7A shall be inserted, namely,-
- “(7A) The Committee shall make available to the Board 50 per cent. of the amount credited to the Fund each year, for publicity or consumer awareness on Goods and Services Tax, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty-five crore rupees per annum.”

Amendment to CGST Rules, 2017 (Contd)

- **Communication before issue of SCN**
- Rule 142 (1A) inserted w.e.f 09.10.2019
- The proper officer shall, before service of notice to the person chargeable with tax, interest and penalty, under Section 73(1) or 74(1), communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.
- The taxpayer after receiving DRC-01A, may file any submissions against the proposed liability in Part B of FORM GST DRC-01A.
- Taxpayer will be able to take advantage of nil or reduced penalty under section 73(5) and 74(5)

Clarification regarding GST rates & classification for goods

- **Circular No. 113/32/2019-GST dated 11th October, 2019**
- **Leguminous vegetables when subject to mild heat treatment (parching)**
- Dried leguminous vegetables are classified under HS code 0713. As per the explanatory memorandum to the HS 2017, the heading 0713 covers leguminous vegetables of heading 0708 which have been dried, and shelled, of a kind used for human or animal consumption (e.g., peas, chickpeas etc.). They may have undergone moderate heat treatment designed mainly to ensure better preservation by inactivating the enzymes (the peroxidases in particular) and eliminating part of the moisture.

Clarification regarding GST rates & classification for goods (Contd)

- **Leguminous vegetables when subject to mild heat treatment (parching)**
- Thus, it is clarified that such leguminous vegetables which are subjected to mere heat treatment for removing moisture, or for softening and puffing or removing the skin, and not subjecting to any other processing or addition of any other ingredients such as salt and oil, would be classified under HS code 0713.
- Such goods if branded and packed in a unit container would attract GST at the rate of 5% [S. No. 25 of notification No. 1/2017- Central Tax (Rate) dated 28.06.2017]. In all other cases such goods would be exempted from GST [S. No. 45 of notification No. 2/2017- Central Tax (Rate) dated 28.06.2017].

Clarification regarding GST rates & classification for goods (Contd)

- **Leguminous vegetables when subject to mild heat treatment (parching)**
- However, if the above dried leguminous vegetable is mixed with other ingredients (such as oil, salt etc) or sold as namkeens then the same would be classified under Sub heading 2106 90 as namkeens, bhujia, chabena and similar edible preparations and attract applicable GST rate
- **Almond Milk:** It is made by pulverizing almonds in a blender with water and is then strained. As such almond milk neither constitutes any fruit pulp or fruit juice. Therefore, it is not classifiable under tariff item 2202 99 20 (@12%)
- Almond milk is classified under the residual entry in the tariff item 2202 99 90 and attract GST rate of 18%.

Clarification regarding GST rates & classification for goods (Contd)

- **Mechanical Sprayer**

- It is clarified that the S. No. 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017 covers “mechanical sprayers” of all types whether or not hand operated (like hand operated sprayer, power operated sprayers, battery operated sprayers, foot sprayer, rocker etc.) GST leviable @12%

- **Imported stores by the Indian Navy for use of navy ships**

- In accordance with letter No. 21/31/63-Cus-IV dated 17 Aug 1966 of the then Department of Revenue and Insurance, the Indian Naval ships were treated as “foreign going vessels” for the purposes of Customs Act, 1962, and the naval personnel serving on board these naval ships were entitled to duty-free supplies of imported stores even when the ships were in Indian harbour.

Clarification regarding GST rates & classification for goods (Contd)

- **Imported stores by the Indian Navy for use of navy ships**
- However, in the GST era, no such circular has been issued regarding exemption from IGST on purchase of imported stores by Indian Naval ships. The doubt has arisen as there is a no specific exemption, while there is a specific exemption for the Coast Guard (vide S. No. 4 of notification No. 37/2017-Customs dated 30.6.2017).
- Indian Naval ship stores are exempted from import duty in terms of section 90(1) of the Customs Act, 1962. Further, as per section 90(2), goods “taken on board a ship of the Indian Navy” shall be construed as exported to any place outside India. Also, section 90(1) and 90(3) of the Customs Act, 1962 provides that imported stores for the use of a ship of the Indian Navy and stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service will be exempted from duty.

Clarification regarding GST rates & classification for goods (Contd)

- Accordingly, it is clarified that imported stores for use in navy ships are entitled to exemption from GST.
- **Taxability of goods imported under lease**
- It is hereby clarified that the expression “taken on lease/imported under lease” (in S. No. 557A and 557B respectively of notification No. 50/2017-Customs dated 30.06.2017) covers imports under an arrangement so as to supply services covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017 to avoid double taxation. The above clarification holds for such transactions in the past.
- Further, wordings of S. No. 557A and 557B of notification No. 50/2017-Customs dated 30.6.2017, have been aligned with Condition No. 102 of the said notification [vide notification No. 34/2019-Customs dated 30.09.2019 w.e.f 01.10.2019]

Clarification regarding GST rates & classification for goods (Contd)

- **GST rate on parts for the manufacture solar water heater and system**
- It is clarified that parts including Solar Evacuated Tube falling under chapter 84, 85 and 94 for the manufacture of solar water heater and system will attract 5% GST.
- **Applicability of GST on the parts and accessories suitable for use solely or principally with a medical device**
- As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. Accordingly, 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under heading 9018, 9019, 9021 or 9022.

Support services to exploration, mining or drilling of petroleum crude or natural gas or both

- **Circular No. 114/33/2019-GST dated 11th October, 2019**
- Most of the activities associated with exploration, mining or drilling of petroleum crude or natural gas fall under heading 9986. A few services particularly technical and consulting services relating to exploration also fall under heading 9983. Therefore, following entry has been inserted under heading 9983 with effect from 1st October 2019 vide Notification No. 20/2019- Central Tax(Rate) dated 30.09.2019; -
- *“(ia) Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both”*

Support services to exploration, mining or drilling of petroleum crude or natural gas or both (Contd)

- **Circular No. 114/33/2019-GST dated 11th October, 2019**
- The scope of the entry at Sr. 24 (ii) under heading 9986 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 shall be governed by the explanatory notes to service codes 998621 and 998622 of the Scheme of Classification of Services.
- It is further clarified that the scope of the entry at Sr. No. 21 (ia) under heading 9983 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 inserted with effect from 1st October 2019 vide Notification No. 20/2019- CT(R) dated 30.09.2019 shall be governed by the explanatory notes to service codes 998341 and 998343 of the Scheme of Classification of Services.

GST on PSF and UDF

- **Circular No. 115/34/2019-GST dated 11th October, 2019**
- Passenger Service Fee (PSF) and User Development Fee (UDF) being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines.
- Thus, airline is not responsible for payment of ST/GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc) which is liable to pay ST/GST on UDF and PSF.
- Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules.

GST on PSF and UDF (Contd)

- **Circular No. 115/34/2019-GST dated 11th October, 2019**
- Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator.
- The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them.
- The amount so recovered will be excluded from the value of supplies made by the airline to its passengers.

GST on PSF and UDF (Contd)

- **Circular No. 115/34/2019-GST dated 11th October, 2019**
- The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government
- The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations

- **Circular No. 116/35/2019-GST dated 11th October, 2019**
- When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation).
- There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations

- **Circular No. 116/35/2019-GST dated 11th October, 2019**
- There is no reference or mention of any business activity of the donor which otherwise would have got advertised.
- Thus where all the three conditions are satisfied namely –
 - the gift or donation is made to a charitable organization,
 - the payment has the character of gift or donation and
 - the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement,
- GST is not leviable.

GST on courses conducted by the Maritime Training Institutes of India

- **Circular No. 117/36/2019-GST dated 11th October, 2019**
- The Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.
- Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

Place of supply in case of software/design services

- **Circular No. 118/37/2019-GST dated 11th October, 2019**
- In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider.
- It is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing on the sample prototype hardware / test kits is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

Taxability of supply of securities under Securities Lending Scheme, 1997

- SEBI has prescribed the Securities Lending Scheme, 1997 for the purpose of facilitating lending and borrowing of securities. Under the Scheme, lender of securities lends to a borrower through an approved intermediary to a borrower under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed.
- The transaction takes place through an electronic screen-based order matching mechanism provided by the recognised stock exchange in India. There is anonymity between the lender and borrower since there is no direct agreement between them.

- The lending fee charged from the borrowers of securities has the character of consideration and this activity is taxable in GST since 01.07.2017.
- Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately.
- The supply of lending of securities under the scheme is classifiable under heading 997119 and is leviable to GST@18% under Sl. No. 15(vii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended from time to time.

- For the past period i.e. from 01.07.2017 to 30.09.2019, GST is payable under forward charge by the lender and request may be made by the lender (supplier) to SEBI to disclose the information about borrower for discharging GST under forward charge. The nature of tax payable shall be IGST. However, if the service provider has already paid CGST / SGST / UTGST treating the supply as an intra-state supply, such lenders shall not be required to pay IGST again in lieu of such GST payments already made.
- With effect from 1st October, 2019, the borrower of securities shall be liable to discharge GST as per Sl. No 16 of Notification No. 22/2019-Central Tax (Rate) dated 30.09.2019 under reverse charge mechanism (RCM). The nature of GST to be paid shall be IGST under RCM.

GST on license fee charged by the States for grant of Liquor licences to vendors

- Services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.
- GST Council in its 37th meeting held on 20.09.2019 further recommended that the decision of the 26th GST Council meeting be implemented by notifying service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, by State Government as neither a supply of goods nor a supply of service.

GST on license fee charged by the States for grant of Liquor licences to vendors (Contd)

- Accordingly, service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called –
 - are treated neither as a supply of goods nor a supply of service **(Notification No. 25/2019-Central Tax (Rate) dated 30th September, 2019)**
- GST Council further decided in the 37th meeting, to clarify that this special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

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