

# GST Update

Weekly Update  
15.12.2018

# Background

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 08.12.2018. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

- One CGST (Removal of Difficulties) Order issued for extension of time limit for filing annual return
- One Customs circular clarifying few features of the New Duty Drawback Schedule increasing drawback rates on various export items issued

# Extension of last date for filing Annual Return

- [http://www.cbic.gov.in/resources//htdocs-cbec/gst/ROD\\_1%20of%202018\\_CT\\_English.pdf;jsessionid=71724DB8869EEDB1431EFFD2CEA31281](http://www.cbic.gov.in/resources//htdocs-cbec/gst/ROD_1%20of%202018_CT_English.pdf;jsessionid=71724DB8869EEDB1431EFFD2CEA31281)
- Central Goods and Services Tax (Removal of Difficulties) Order, 2018 dated 11<sup>th</sup> December, 2018
- After Section 44(2) of the CGST Act, 2017, the following Explanation be inserted:-
  - “Explanation.- For the purposes of this section, it is hereby declared that the annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the 31st March, 2019.”
- The electronic system for submission of annual return is likely to be made operational by the 31st January, 2019

# New Duty Drawback Schedule

- <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2018/Circular-52-2018-Customs-new.pdf;jsessionid=D4452D8DC465BC26C9403056F296C279>
- For claiming these AIRs, the relevant tariff item have to be suffixed with suffix 'B' e.g. for export of goods covered under tariff item (TI) 640609, the drawback serial no. should be declared as 640609B
- Alternative AIRs specified on garments exports made against the Special Advance Authorization (para 4.04A of Foreign Trade Policy 2015-20) in discharge of export obligations in terms of Notification No. 45/2016- Customs dated 13.08.2016. For claiming these alternative AIRs, the relevant tariff item has to be suffixed with suffix 'D' instead of the usual suffix 'B'.

# New Duty Drawback Schedule (Contd)

- Rates increased / rationalised on account of factors such as change in duty structure, change in prices (CIF) of imported inputs and FOB of export goods, change in import intensity of inputs; decrease in C. Ex. Duty rate on diesel etc
- 24 new tariff items in various sectors viz. Chemicals (17 items), Textiles and made-up (3 items) and Electrical and electronics (4 items) have been introduced in the Schedule including for common rail injector (Chapter 84) and cellular mobile phones (Chapter 85)
- Representations with supporting data and documents, if any, from exporters also solicited, for higher rates than rates provided. The representation may be submitted latest by 31.12.2018.

# GST Legal Updates

# Incidence of Tax is on the Supply and not on the nature of transport

## Case of Kun Motor Co Pvt Ltd Vs ASTO reported in 2018-TIOL-185-HC-Kerala GST

### Facts

In the present case the challenge was to the judgment of the Kerala HC in the case reported in 2018-TIOL-163-Ker-HC.

A person from Trivandrum goes to Pondicherry, purchases a car, and entrusts it to the car dealer to transport it to Trivandrum. On the way, in Kerala, the officials under the GST Act, intercept the vehicle and detain the goods, for no e-way bill accompanies the consignment. After responding to the statutory notice and after suffering a penalty order under section 129 of the GST Act, both the dealer and the purchaser file this writ petition.



# Incidence of Tax is on the Supply and not on the nature of transport

The High Court in its order dated 10 September 2018 had held as under

Law, at times, can be harsh, and the Courts, usually, defer to the legislative wisdom - if the conditions under the CGST Act and Rules are not complied with, definitely Section 129 operates and confiscation would be attracted - Respondents are entitled to adjudication, but they would have to prove that the goods being transported stand exempted from the rigours of the GST regime - either of the petitioners can get the goods released by complying with section 129 and the relevant rules, and seek an early adjudication of the dispute.

On Appeal, the Division Bench of the High Court overruled the decision of the Single judge.

# Incidence of Tax is on the Supply and not on the nature of transport

The Division Bench of the HC held as under

Incidence of tax is on the supply and not on the nature of transport - When a person residing in one State goes to another State and purchases goods for his own use, the supply with respect to the transaction terminates on the individual taking possession of the goods in that other State - goods have come into the possession of the purchaser and the vehicle having been used, however negligible the distance run, it is a "used personal effect" - there can be alleged no taxable transaction insofar as the movement of goods from Puthuchery to Trivandrum in Kerala, especially since the car had been registered in the name of the purchaser - "personal effects" includes a car - intra-State sale having occasioned and the transport being of used personal effects, the detention was illegal - notice issued and the order passed u/s 129 of the Act being illegal and totally without jurisdiction, same is quashed - judgment of the Single Judge set aside and the appeal is allowed.

## Any ISSUES/ queries?

- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
  - 1800 1200 232
  - [cbecmitra.helpdesk@icegate.gov.in](mailto: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](https://twitter.com/askGST_GoI)
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- [https://twitter.com/NACIN\\_OFFICIAL](https://twitter.com/NACIN_OFFICIAL)

**THANK YOU**