

# GST Update

Weekly Update  
08.06.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 01.06.2019. 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 press release on clarifications regarding Annual returns issued last week
- No GST Notification/ circular issued last week

# Annual Return ( Form GSTR-9)

- [http://www.cbic.gov.in/resources//htdocs-cbec/press-release/03062019 Press Release on Annual Return.pdf;jsessionid=4D120BD7791C96A5D4E70E557EF10F37](http://www.cbic.gov.in/resources//htdocs-cbec/press-release/03062019%20Press%20Release%20on%20Annual%20Return.pdf;jsessionid=4D120BD7791C96A5D4E70E557EF10F37)
- CBIC Press Release dated 04<sup>th</sup> June, 2019
- **Clarifications on filing of Annual Return (FORM GSTR-9)**
- The last date for filing of Annual return in FORM GSTR-9 is 30th June 2019. All the taxpayers are requested to file their Annual Return (FORM GSTR-9) at the earliest to avoid last minute rush.

# Annual Return ( Form GSTR-9).. Contd

- Information contained in FORM GSTR-2A as on 01.05.2019 shall be auto-populated in Table 8A of FORM GSTR-9.
- Input tax credit on inward supplies shall be declared from April 2018 to March 2019 in Table 8C of FORM GSTR-9.
- Particulars of the transactions for FY 2017-18 declared in returns between April 2018 to March 2019 shall be declared in Pt. V of FORM GSTR-9. Such particulars may contain details of amendments furnished in Table 10 and Table 11 of FORM GSTR-1.

# Annual Return ( Form GSTR-9).. Contd

- It may be noted that irrespective of when the supply was declared in FORM GSTR-1, the principle of declaring a supply in Pt. II or Pt. V is essentially driven by when was tax paid through FORM GSTR-3B in respect of such supplies. If the tax on such supply was paid through FORM GSTR-3B between July 2017 to March 2018 then such supply shall be declared in Pt. II and if the tax was paid through FORM GSTR3B between April 2018 to March 2019 then such supply shall be declared in Pt. V of FORM GSTR-9.
- Any additional outward supply which was not declared by the registered person in FORM GSTR-1 and FORM GSTR-3B shall be declared in Pt. II of the FORM GSTR-9. Such additional liability shall be computed in Pt. IV and the gap between the “tax payable” and “Paid through cash” column of FORM GSTR-9 shall be paid through FORM DRC-03.

# Annual Return ( Form GSTR-9).. Contd

- Many taxpayers have reported a mismatch between auto-populated data and the actual entry in their books of accounts or returns. One common challenge reported by taxpayer is in Table 4 of FORM GSTR-9 where details may have been missed in FORM GSTR-1 but tax was already paid in FORM GSTR-3B and therefore taxpayers see a mismatch between auto-populated data and data in FORM GSTR-3B. It may be noted that auto-population is a functionality provided to taxpayers for facilitation purposes, taxpayers shall report the data as per their books of account or returns filed during the financial year

# Annual Return ( Form GSTR-9).. Contd

- Many taxpayers have represented that Table 8 has no row to fill in credit of IGST paid at the time of import of goods but availed in the return of April 2018 to March 2019. Due to this, there are apprehensions that credit which was availed between April 2018 to March 2019 but not reported in the annual return may lapse. For this particular entry, taxpayers are advised to fill in their entire credit availed on import of goods from July 2017 to March 2019 in Table 6(E) of FORM GSTR-9 itself.
- Payments made through FORM DRC-03 for any supplies relating to period between July 2017 to March 2018 will not be accounted for in FORM GSTR-9 but shall be reported during reconciliation in FORM GSTR-9C.





# GST Portal Updates

# New Functionality

- **Return: Offline Utility for filing of Form GSTR-9**
- Offline utility of Form GSTR-9 is available in the download section of GST Portal for the taxpayers. The excel based offline utility is designed to help taxpayers to prepare their Form GSTR-9 offline.
- *(refer Section 44 of the CGST Act, 2017 & Rule 80 of the CGST Rules, 2017, available since May, 2019)*

# Defects Fixed for Taxpayer

- **Refunds**
- Refund amount entered, while filing refund application for excess payment of tax, will get rounded off now.
- Correct financial period will now be displayed in ARN receipt & Track ARN Status of Refund.
- Refund filed by UN user, downloaded in PDF format, will now show period as quarterly (July-Sept/ Oct-Dec instead of 13, 14, 15 ) and NA will not appear for refund filed for the period July-September, 2017-18

# Defects Fixed for Taxpayer

- **Registration – TDS:** TDS Registrants whose constitution of business is “Authority or board or Any other body notified by Central/State Government or statutory body/ government agencies" can now download their registration certificate
- **Registration – GSTP:** GSTP will now get an intimation about disengagement of their services as and when done by a taxpayer.
- **Search Taxpayer facility on GST Portal:** Search Taxpayer facility on GST Portal will now show return filing details of a taxpayer only when the relevant button (provided for showing its details) is clicked. (This is done to take care of performance issues on the portal during peak return filing period.)

## Defects Fixed for Taxpayer

- **Return:** Taxpayer who have not filed their Form GSTR 1 for the month of March, 2019 can now amend invoices of July, 2017 also, as drop down will appear for making amendments in the invoices of the July, 2017 month.
- **Return – numeric character only in Shipping bill field:** Shipping bill field in Form GSTR 1 will now accept only numeric character(in the cases of copy & paste to populate the field).
- **Return- Form GSTR 10:** User can now delete invoices online, in Form GSTR 10 starting with serial number '0' (zero).
- **Return –Form GSTR 9:** Now a message is also shown to taxpayer that Form GSTR-2A has been compiled on the basis of Form GSTR-1 filed up to ----- date and next updation will happen on ----- date. Now updations of Form GSTR-2A is being done on weekly basis.



# GST Legal Updates

# No Confiscation unless Tax and Penalty is quantified.

## Case of Shree Enterprises Vs CTO reported in 2019-TIOL-1185-HC-KAR-GST

### Facts

Petitioners have challenged the order of confiscation as illegal, seeking all consequential reliefs. Petitioners are claiming to be the consignee and transporter of the goods in question. It is their contention that the Respondent has detained the goods and vehicle illegally for more than a month in violation of the procedure prescribed by the Government of India through Circulars and confiscated the goods and vehicle without there being any order of confiscation or there being arrears of tax and penalty.

# No Confiscation unless Tax and Penalty is quantified.

## The Hon'ble Karnataka High Court held as under

It is not in dispute that the notice under Section 129(1)(b) of CGST/KGST Act, 2017 was issued by the respondent on 2.01.2019, to which objections were filed by the petitioners. In such circumstances, it was incumbent on the part of the Respondent to consider the said objections and pass a speaking order quantifying the tax and penalty and thereafter to release the goods subject to payment of tax and penalty or to confiscate the goods. However, the respondent considering the objections filed by the petitioners proceeded to pass the impugned order of confiscation of goods and conveyance under Section 130(1)(ii) r/w 122(1)(ii) and (iv) of the CGST Act, whereby penalty and fine payable by the petitioner is quantified. Reference made by the Revenue counsel to Section 160 of the CGST Act to treat the said impugned order as an order of penalty cannot be countenanced for the reason that it is not mere wrong quotation of provisions of law in passing the order impugned but the procedure prescribed is disturbed. **Contd....**



# No Confiscation unless Tax and Penalty is quantified.

## **The Hon'ble Karnataka High Court held as under**

It is well settled law that unless the tax and penalty are quantified, no confiscation order could be passed. It is necessary to provide an opportunity to the owner of the goods or person incharge of the goods vehicle to make payment of tax and penalty subsequent to the objections filed, if any.

Without providing such an opportunity, proceeding to pass confiscation order directly would not be construed as any mistake, defect or omission to come within the ambit of Section 160 of the CGST Act. It is a fundamental flaw which goes to the root of the matter and the said lacuna cannot be cured by referring to Section 160 of the CGST Act when the Circular/instructions issued by Government of India clarifies the procedure to be followed by the proper officer while dealing with these matters. Passing of the penalty order being sine qua non in the proceedings initiated by the respondent under Section 129(1)(b) of the Act and the same being missing, the impugned confiscation order cannot be held to be justifiable.

# No Confiscation unless Tax and Penalty is quantified.

## **The Hon'ble Karnataka High Court held as under**

GST regime being in the initial stages, Court deems it appropriate to quash the order impugned and restore the notice issued by the respondent under Section 129(1)(b) of the Act. Respondent shall consider the objections/reply filed by the petitioners and pass appropriate orders in accordance with law in an expedite manner (preferably within seven days) after quantifying the tax and penalty for the purpose of Section 129 of the Act - On quantification of penalty, goods and conveyance shall be released to the petitioners subject to payment of the penalty quantified.

# FIR can be lodged under Code of Criminal Procedure for GST offences.



## Case of Govind Enterprises Vs State of UP reported in 2019-TIOL-1170-HC-ALL-GST

**Facts:** Petitioner seeks quashing of first information report (FIR) dated 30.11.2018 lodged by Assistant Commissioner, Commercial Tax at police station Kosi Kalan, District Mathura, under Sections 420, 467, 468, 471, 34, 120-B IPC. Thrust of the allegations made in the impugned FIR is that the dealer fraudulently, with a dishonest intention, by submitting false documents, with an intention to evade taxes, obtained registration, thereafter, took inward supply and passed on the goods to end users, without generating outward supply bills, received money in cash and deposited the same in bank account which was not declared at the time of seeking registration. According to the allegations, a bogus firm was got registered by showing false and bogus addresses of business; and, by taking advantage of such registration, inward e-way bills were generated to make purchase of goods worth Rs.35 odd crores and, thereafter, without generating outward supply bills, huge amount of money was deposited in cash in undisclosed bank account, suggesting that goods were sold without proper documentation, with a view to evade taxes.

Petitioner submitted that till date no case had been registered under the provisions of the U.P. Act or under the CGST Act and no recovery demand has been raised and, therefore, lodging of the FIR under the provisions of the IPC is not legally sustainable; that the GST Act is a complete code in itself as it contemplates and deals with all kinds of situations and offences relating to registration of firms, tax evasion etc and it prescribes a specific procedure for arrest and prosecution, therefore, lodging of the FIR for offences punishable under the IPC by taking recourse to the provisions of the Code of Criminal Procedure, 1973 is not legally justified; that the power to arrest is to be exercised only where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of Section 132(1) of the U.P. Act, and, by order, has authorized any officer of Sales tax to arrest such person; that, under the circumstances, first a proceeding has to be drawn under the provisions of the U.P. Act and, only, thereafter there could be arrest, that too, after recording satisfaction and hence, lodging of the FIR straightaway is not legally permissible; that even assuming that a FIR can be registered, as no demand for recovery has yet been issued, there is no justification to effect arrest of the petitioner pending investigation.

# FIR can be lodged under Code of Criminal Procedure for GST offences.

The Hon'ble Allahabad High Court held as under-

Sections 69, 134, and 135 of the U.P. Act are applicable in respect of offences punishable under the U.P. Act. They have no application on offences punishable under the Penal Code - Further, there is no provision in the U.P. Act which may suggest that the provisions of the U.P. Act overrides or expressly or impliedly repeals the provisions of the Penal Code. There is also no bar in the U.P. Act on lodging an FIR under the Code for offences punishable under the Penal Code even though, for the same act/ conduct, prosecution can be launched under the U.P. Act. Rather, section 131 of the U.P. Act impliedly saves the provisions of the Penal Code by providing that no confiscation made or penalty imposed under the provisions of the Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of the U.P. Act or under any other law for the time being in force. Argument of petitioner that except for offences specified in section 132(5), section 132(4) of the U.P. Act renders all offences under the U.P. Act non cognizable, therefore no FIR can be lodged, is not acceptable, because sub-section (4) speaks of offences under the U.P. Act and not in respect of offences under the Penal Code.



# FIR can be lodged under Code of Criminal Procedure for GST offences.

**The Hon'ble Allahabad High Court held as under-**

Offences punishable under the IPC are qualitatively different from an offence punishable under the U.P. Act. **The contention of the petitioner that no FIR report can be lodged under the provisions of the Code of Criminal Procedure for offences punishable under the IPC, as proceeding could only be drawn against him under the U.P. GST Act, 2017, is rejected.** Prima facie, necessary ingredients of an offence of cheating, by submitting false information and documents, are clearly spelt out in the FIR. **Impugned FIR is, therefore, not liable to be quashed.** To ensure that a person's liberty is not jeopardized, on account of false implication, protection from arrest, pending investigation, may be granted by superior courts but that power is not ordinarily to be exercised in matters relating to economic fraud. As, in such matters, stay on arrest may become a hurdle in thorough investigation of the matter, particularly in tracing out the money trail. This is not a fit case where any relief should be granted to the petitioner in the writ jurisdiction - Petition is dismissed.

## 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**