

GST Update

Weekly Update
15.02.2020

Background

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 08.02.2020. 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

Notifications/ Circulars

- One notification by Dept of Revenue declaring the GST database in GSTN as protected system under IT act, 2000

GST Database declared as protected system

- **DOR Notification G.S.R. 84(E) dated 04th February, 2020 [F. No. S-31011/01/2012-SO (ST-1)(Pt.-8)]**
- Ministry of Finance has declared the GST Database and its associated infrastructure dependencies installed at GSTN, as the protected system under Section 70(1) of the Information Technology Act, 2000

GST Database declared as protected system (Contd)

- The following persons shall be authorised to access the protected system: -
 - a) Designated GSTN employees authorised by Head of GSTN;
 - b) Designated Tax officers of the Central Government, State Government, Union territories, Auditing agencies and Accounting Authorities;
 - c) Authorised members or employees of Contractual Managed Service Provider or third-party vendor(s) or its partner(s); and
 - d) GSTN authorized business partner(s).

Section 70 of IT Act, 2000

- **Section 70. Protected system.—**

- (1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

- Explanation.—For the purposes of this section, Critical Information Infrastructure means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.

- (2) The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1).

- **Section 70. Protected system.—**
- (3) Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.
- (4) The Central Government shall prescribe the information security practices and procedures for such protected system.

Interest on delayed GST Payments under section 50 of CGST Act, 2017

- Interest payable on Delayed Tax to be calculated on Total Tax Liability as filed in GSTR-3B
- Section 50(1) provides for the interest on delayed payment of tax interest liability, either through cash or through utilization of input tax credit (ITC). In other words, interest is required to be paid on total amount of tax liability as shown in Form GSTR 3B which has been paid belatedly.
- Section 75 (12) provides that interest is payable on such delayed payment of tax and can be recovered under the provisions of section 79 of the CGST Act.

Interest on delayed GST Payments under section 50 of CGST Act, 2017

- The GST laws, as of now, permit interest calculation on delayed GST payment on the basis of gross tax liability. This position has been upheld in the Telangana High Court's decision dated 18.04.2019
- In spite of this position of law and Telangana High Court's order, the Central Government and several State Governments, on the recommendations of GST Council in its 31st Meeting, amended their respective CGST/SGST Acts to charge interest on delayed GST payment on the basis of net tax liability. Such amendment will be made prospectively from a date yet to be notified.

- **Scheme for Rebate of State and Central taxes and Levies (RoSCTL) on export of garments and made-ups**
- Ministry of Textiles had notified a new scheme called Scheme for Rebate of State and Central Taxes and Levies (RoSCTL) on export of garments and made-ups vide Notification No. 14/26/2016-IT (Vol II) dated 7th March, 2019, w.e.f. 7th March, 2019.
- Scheme shall remain in force up to 31.03.2020
- Old scheme ROSCTL shall be discontinued
- CBIC has issued Circular No. 10/ 2019-Customs dated 12th March, 2019, Notification No. 13/2020 – Customs dated 14th February, 2020 and Notification No. 1/2020 – Central Excise dated 14th February, 2020 on the above subject.

ROSCTL Scheme (Contd)

- OBJECTIVE - In accordance with the recognized international economic principle of zero rating of export products,
- The Central Government shall provide for rebate of State and Central Taxes and Levies in addition to the Duty Drawback Scheme, through the Scheme for RoSCTL on export of Garments and Made-ups at notified rates and value caps.

ROSCTL Scheme (Contd)

- Rebate of State Taxes and Levies shall be understood to comprise VAT on fuel used in transportation, captive power, farm sector, mandi tax, duty of electricity, stamp duty on export documents, embedded SGST paid on inputs such as pesticides, fertilizers etc. used in production of raw cotton, purchases from unregistered dealers, coal used in production of electricity and inputs for transport sector.
- Rebate of Central Taxes and Levies shall be understood to comprise central excise duty on fuel used in transportation, embedded CGST paid on inputs such as pesticides, fertilizer etc. used in production of raw cotton, purchases from unregistered dealers, inputs for transport sector and embedded CGST and Compensation Cess on coal used in production of electricity.

ROSCTL Scheme (Contd)

- The rates (including applicable value caps) of RoSCTL on export of garments and made-ups manufactured in India have been recommended by the Drawback Committee constituted by the Central Government notified by the Ministry of Textiles.
- The ROSCTL shall be implemented by DGFT through a Merchandise Exports from India Scheme (MEIS) type scrip system.
- Exemption from Basic Customs Duty and Central Excise duty when imported against a duty credit scrip issued by the Regional Authority under the RoSCTL scheme in accordance with paragraph 4.01(c) of the Foreign Trade Policy read with paragraphs 4.95 and 4.96 of the Handbook of Procedures



GST Legal Updates

Extension of due date of Annual returns

- **UOI Vs Tax Bar Association & Ors; Special Leave to Appeal No. 3839/ 2020**
- The Hon'ble Supreme Court has stayed Rajasthan High Court order which had extended the deadline of GSTR-9 (GST Annual Return) and GSTR-9C (Reconciliation Statement) to 12.02.2020.
- Further, Supreme Court directed the UOI to file a detailed reply to address the bottlenecks especially the lower capacity of the server of GSTN before High Court and the High Court to decide issue finally on the basis of facts without getting influenced by this ad-hoc order. Earlier, the Rajasthan High Court had directed the GST Department to accept the filing of GSTR-9 and GSTR-9C till February 12th 2020 without late fees.

Extension of due date of Annual returns (Contd)

- The court after taking into consideration screenshots submitted by the Petitioner regarding the unsuccessful attempts of the tax professionals time and again during the extended period was satisfied that GSTN portal does not have the requisite capacity to handle the filing of pending returns within the deadline.
- While Staying the part of the Rajasthan High Court order which extended the deadline for submitting the returns, the Apex Court has said that-
- We do not intend by this ad-hoc order to at all interfere with what the High Court may ultimately do on the facts of this case.

M/s Kaish Impex Private Limited Vs UOI

- The Petitioner-Kaish Impex Private Limited is a Company engaged in the export of perfumes and compound fragrance oil. The Petitioner is registered under the GST Act, 2017. The Petitioner, in pursuant of its activity of export, had carried out various transactions with different entities.
- The Respondent-Authorities initiated an inquiry against an export firm in Delhi – M/s. Maps Global. The Respondent-authorities suspected that M/s. Maps Global was involved in fraudulent availing of Input Tax Credit, and this Input Tax Credit was utilised for payment of export goods, and later a refund was sought. The Respondent-authorities scrutinized the bank account of M/s. Maps Global and noticed that an amount of Rs. 28,50,000/- was transferred to one M/s. Balajee Enterprises.

M/s Kaish Impex Private Limited Vs UOI (Contd)

- The Respondent-authorities suspected these transactions were fictitious and no material was supplied to M/s. Maps Global. Further, according to Respondent-authorities. M/s. Balajee Enterprises transferred an amount of Rs.1,63,00,000/- to the account of the Petitioner on 17 October 2019
- Summons were issued under section 70 of the CGST Act to the Petitioner, referring to inquiry against M/s. Maps Global. On the same day, accounts were also attached. Challenging this action of attachment under Section 83 of the Act, the Petitioner has moved the present Petition.

M/s Kaish Impex Private Limited Vs UOI (Contd)

- High Court held-
- Section 83 read with Rule 159(1), and the form GST DRC-22, lay down a scheme as to how provisional attachment in certain cases is to be levied. Section 83 though uses the phrase '*pendency of any proceedings*', the proceedings are referable to section 62, 63, 64, 67, 73 and 74 of the Act and none other. The bank account of the taxable person can be attached against whom the proceedings under the sections mentioned above are initiated.
- Section 83 does not provide for an automatic extension to any other taxable person from an inquiry specifically launched against a taxable person under these provisions.

M/s Kaish Impex Private Limited Vs UOI (Contd)

- Section 83 read with section 159(2), and the form GST DRC-22 show that a proceeding has to be initiated against a specific taxable person, an opinion has to be formed that to protect the interest of Revenue an order of provisional attachment is necessary. The format of the order, i.e. the form GST DRC-22 also specifies the particulars of a registered taxable person and which proceedings have been launched against the aforesaid taxable person indicating a nexus between the proceedings to be initiated against a taxable person and provisional attachment of bank account of such taxable person.
- It is therefore not possible to accept the submission of the Respondents that even though specified proceedings have been launched against one taxable person, bank account of another taxable person can be provisionally attached merely based on the summons issued under section 70 to him.

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_Gol
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU