

GST Update

Weekly Update
15.06.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 08.06.2019. 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 dated 11th June, 2019 on Transition plan to the new GST Return issued last week
- No GST Notification/ circular issued last week

Transition plan to the new GST Return

- <http://www.cbic.gov.in/resources//htdocs-cbec/press-release/11062019-Roadmap-for-introduction-of-New-Return-Model.pdf;jsessionid=2FD58D3E7B7287BBFFFF3EA47087FA83>
- Press Release dated 11th June, 2019
- The details of the indicative transition plan are as follows: -
- In May, 2019 a prototype of the offline tool has already been shared on the common portal to give the look and feel of the tool to the users. The look and feel of the offline tool would be same as that of the online portal. Taxpayers may be aware that there are three main components to the new return – one main return (FORM GST RET-1) and two annexures (FORM GST ANX-1 and FORM GST ANX-2).

Transition plan to the new GST Return (Contd)

- From July, 2019, users would be able to upload invoices using the FORM GST ANX1 offline tool on trial basis for familiarisation. Further, users would also be able to view and download, the inward supply of invoices using the FORM GST ANX-2 offline tool under the trial program. The summary of inward supply invoices would also be available for view on the common portal online. They would also be able to import their purchase register in the Offline Tool and match it with the downloaded inward supply invoices to find mismatches from August 2019.

Transition plan to the new GST Return (Contd)

- Between July to September, 2019 (for three months), the new return system (ANX-1 & ANX-2 only) would be available for trial for taxpayers to make themselves familiar. This trial would have no impact at the back end on the tax liability or input tax credit of the taxpayer. In this period, taxpayers shall continue to fulfil their compliances by filing FORM GSTR-1 and FORM GSTR-3B i.e. taxpayers would continue to file their outward supply details in FORM GSTR-1 on monthly / quarterly basis and return in FORM GSTR-3B on monthly basis. Non-filing of these returns shall attract penal provisions under the GST Act.

Transition plan to the new GST Return (Contd)

- From October, 2019 onwards, FORM GST ANX-1 shall be made compulsory and FORM GSTR-1 would be replaced by FORM GST ANX-1. The large taxpayers (i.e. those taxpayers whose aggregate annual turnover in the previous financial year was more than Rs. 5 Crore) would upload their monthly FORM GST ANX-1 from October, 2019 onwards. However, the first compulsory quarterly FORM GST ANX-1 to be uploaded by small taxpayers (with aggregate annual turnover in the previous financial year up to Rs. 5 Crore) would be due only in January, 2020 for the quarter October to December, 2019. It may be noted that invoices etc. can be uploaded in FORM GST ANX-1 on a continuous basis both by large and small taxpayers from October, 2019 onwards. FORM GST ANX2 may be viewed simultaneously during this period but no action shall be allowed on such FORM GST ANX-2.

Transition plan to the new GST Return (Contd)

- For October and November, 2019, large taxpayers would continue to file FORM GSTR-3B on monthly basis. They would file their first FORM GST RET-01 for the month of December, 2019 by 20th January, 2020.
- The small taxpayers would stop filing FORM GSTR-3B and would start filing FORM GST PMT-08 from October, 2019 onwards. They would file their first FORM GST-RET-01 for the quarter October, 2019 to December, 2019 from 20th January, 2020.
- From January, 2020 onwards, all taxpayers shall be filing FORM GST RET-01 and FORM GSTR-3B shall be completely phased out.
- Separate instructions shall be issued for filing and processing of refund applications between October to December, 2019.

Features of New Returns

- Key Features of New Returns as discussed in the GST Council's 27th, 28th and 31st Meetings are as under:
- **Monthly return:** All taxpayers (having previous year aggregate turnover exceeding 5 crore) excluding small taxpayers and a few exceptions like ISD etc. shall file one monthly return.
- Taxpayers opting for monthly return whose previous year aggregate turnover is up to 5 crore, shall be able to declare all types of outward supplies, inward supplies and take credit on missing invoices.
- **Quarterly Returns:** For taxpayers whose previous year aggregate turnover is up to 5 crore, **may opt** to file Return (RET 1) at quarterly basis; No credit on missing invoices
 - **Sahaj:** B2C category only
 - **Sugam:** B2C and B2B category

Features of New Returns (Contd)

- **Staggered date:** The due date for filing of return by a large taxpayer shall be 20th of the next month whereas the due date for the smaller taxpayers shall be 25th.
- **Continuous uploading and viewing:** Facility for continuous upload of invoices by the supplier and viewing by the recipient along with tax payment status of an invoice shall be available.
- Invoice uploaded but return not filed: In cases where no return is filed after uploading of the invoices, It shall be treated as self- admitted liability by the supplier.
- Uploaded invoices in the annexure of the return shall auto-populate the main liability table of the return.

Features of New Returns (Contd)

- **Locking of invoices:** Locking of invoices means a handshake between the recipient and supplier indicating acceptance of the transaction reported in the invoice. Facility for locking of invoice by the recipient before filing of the return shall be available. Locked invoices can not be amended.
- **Pending invoices:** Pending invoices are invoices which have been uploaded by the supplier for which supplies have not been received or the recipient is of the view that the invoice needs amendment.

Features of New Returns (Contd)

- **No automatic reversal of credit:** There shall not be any automatic reversal of Input tax credit at the recipient's end where tax has not been paid by the supplier.
- The first response of revenue administration in case of default in payment of tax shall be to recover it from seller.
- In some exceptional circumstances like missing dealer, closure of business by the supplier, recovery of input tax credit from recipient shall be through a due process of service of notice and personal hearing.

Features of New Returns (Contd)

- **Periodicity of filing return** will be deemed to be monthly for all taxpayers unless quarterly filing of the return is opted for.
- For newly registered taxpayers, turnover will be considered as zero and hence they will have the option to file monthly, Sahaj, Sugam or Quarterly (Normal) return.
- Change in periodicity of the return filing (from quarterly to monthly and vice versa) would be allowed only once at the time of filing the first return by a taxpayer.
- The periodicity of the return filing will remain unchanged during the next financial year unless changed before filing the first return of that year.
- The taxpayers opting to file quarterly return can choose to file any of the quarterly return namely – Sahaj, Sugam or Quarterly (Normal).

- **Sahaj:** Taxpayers opting to file quarterly return as 'Sahaj' shall be allowed to declare outward supply under B2C category and inward supplies attracting reverse charge only.
- Such taxpayers cannot make supplies through e-commerce operators on which tax is required to be collected under section 52.
- Such tax payers shall not take credit on missing invoices and shall not be allowed to make any other type of inward or outward supplies. However, such taxpayers may make Nil rated, exempted or Non-GST supplies which need not be declared in the said return

- **Sugam:** Taxpayers opting to file quarterly return as ‘Sugam’ shall be allowed to declare outward supply under B2C and B2B category and inward supplies attracting reverse charge only. Such taxpayers cannot make supplies through e-commerce operators on which tax is required to be collected under section 52. Such tax payers shall not take credit on missing invoices and shall not be allowed to make any other type of inward or outward supplies. However, such taxpayers may make Nil rated, exempted or Non-GST supplies which need not be declared in said return.
- Taxpayers opting to file monthly return or Quarterly (Normal) return shall be able to declare all types of outward supplies, inward supplies and take credit on missing invoices.

- **Quarterly Return Filers:** Taxpayers opting to file the return on quarterly basis have to make payment on monthly basis on the supplies made during the month.
- Only eligible ITC shall be claimed through this FORM.
- Payment of self-assessed liabilities shall be made for the first two months of the quarter.
- Credit of the tax paid during the first two months of the quarter shall be available at the time of filing the return for the quarter.
- Payment of the self-assessed liabilities shall be made by 20th of the month succeeding the month to which the liability pertains.
- Liability and input tax credit availed shall be based on self-assessment subject to adjustment in the main return of the quarter.

- **Amendment of return:** To err is human and therefore the new return design provides facility for amendment of invoice and also the other details filed in the return.
- Amendment shall be carried out by filing of a return called amendment return. For each of the tax period, up to two amendment returns can be filed.
- Filing process of amendment return(GST RET-1A) will be similar to the filing process of original return (FORM GST RET-1).
- Entries made by the taxpayer in the main return (FORM GST RET-1) which were not auto-populated shall be editable in this return.
- Payment can be made if liability arises due to filing of amendment return. If liability becomes negative then no refund shall be paid. However, it will be carried forward to the main return (FORM GST RET – 1) of next tax period where adjustment can be made.

- **Annex 1 and Annex 2**
- Uploading of supply details through an annexure GST ANX-1
- ANX-1 shall contain details of outward supply, inward supply on which tax is payable under RCM and import of goods and services details
- The details uploaded will be made available in annexure GST ANX-2 to recipient on near real time basis.
- In ANX-2, only action to accept, reject and pending has to be taken before filing return.
- If no action is taken, then all documents will be treated as deemed accepted by recipient for the purpose of availing ITC

- **Annex 1 and Annex 2**
- Details of the documents (invoice, credit/debit notes) can be uploaded any time during the month till filing of return. Documents uploaded up to 10th of the following month shall be made available to the recipient for claiming ITC.
- Documents uploaded after 10th of following month shall be made available to the recipient in the next month.

Features of New Returns (Contd)

- Matching of ANX-2 with Purchase Register
- Matching will be done on seven parameters:
 - GSTIN; Document type; Document number; Document date; Taxable value; Tax amount (total); Tax amount head wise
- Out of the above, first two parameters treated as primary key for the purpose of matching.

- **Types of Mismatch**
 - **Exact match** – If all seven parameters matches.
 - **Partial match** – First two primary parameter matches and any one of the remaining five parameters does not match.
 - **Probable match** – One or both of two primary parameters not matching, remaining five parameters match.
- **Provision for refinement (Tolerance limit and approximation)**
 - Provision for tolerance limit in amount of tax
 - Provision for approximation on document number

- **Input Tax Credit:** Recipient will get credit during a tax period on the basis of the details of documents uploaded by the supplier up to the 10th of the month following the month for which the return is being filed for. Such credit can be availed i.e. credited to the ledger of the recipient only on filing of his (i.e. recipient's) return. There may be following two scenarios:
 - If the recipient files his return on a monthly basis, say, for the month of January, 2019 on 20th February, 2019, he shall be eligible to take credit in his return based on the documents uploaded by the supplier upto the 10th of February, 2019 irrespective of whether the supplier files his return on monthly or quarterly basis.
 - If the recipient files his return on a quarterly basis (Normal, Sahaj or Sugam), say for the quarter January – March, 2019 on 25th April, 2019, he shall be eligible to take credit in his return based on the documents uploaded by the supplier up to the 10th of April, 2019 irrespective of whether the supplier files his return on monthly or quarterly basis.

- **Input Tax Credit:**
- Recipient can take action on the auto-populated documents to – **Accept, Reject or to keep pending** on continuous basis after 10th of the month following the month in which such documents have been uploaded.
- Accepted documents will mean that supplies reported in such document have been received before filing of return by the recipient and the details given in the documents reported in FORM GST ANX-1 are correct. Accepted documents would not be available for amendment at the corresponding supplier's end.
- An invoice with an error that cannot be corrected through a financial debit / credit note shall be rejected.

- **Input Tax Credit:**
- Pending action will mean that the recipient has deferred the decision of accepting or rejecting the details of the invoices. There may be multiple reasons for the same such as supplies are yet to be received or the recipient decides that ITC is not to be taken for the time being etc.
- The input tax credit in respect of pending invoices shall not be accounted for in table 4A of the main return (FORM GST RET-1) of the recipient and such invoices would be rolled over to FORM GST ANX-2 of the next tax period.
- Pending invoices will not be available for amendment by the supplier until rejected by the recipient.



GST Legal Updates

High Court not to go into the merits of the decision given by Appellate Authority for Advance Rulings (AAAR).

Case of JSW Energy Vs UOI reported in 2019-TIOL-1236-HC-MUM-GST

Facts

Petitioner challenges the orders of the AAR and the AAAR - the AAR had held that the proposed arrangement by the applicant with JSW Steel Limited did not qualify as 'job work' primarily because the same amounted to 'manufacture' as defined under Section 2(72) of the CGST Act and, therefore, the Advance Ruling Authority ruled that the proposed arrangement attracted GST - the AAAR disagreed with the reasoning of Advance Ruling Authority that the proposed arrangement did not amount to 'job work' because the same amounted to 'manufacture', however, the Appellate Authority, upheld the

High Court not to go into the merits of the decision given by Appellate Authority for Advance Rulings (AAAR).

the ultimate conclusion of Advance Ruling Authority relying upon two different and distinct grounds which the petitioner claims are new grounds and that the Appellate Authority, in any case, clearly exceeded jurisdiction in introducing or relying upon 'new grounds', which were never raised before Advance Ruling Authority by the Revenue and that such exercise of introducing or relying upon 'new grounds' was ex facie in excess of jurisdiction.

High Court not to go into the merits of the decision given by Appellate Authority for Advance Rulings (AAAR).

The Hon'ble High Court held as under

Bench makes it clear that it does not propose to examine the impugned orders on their substantive merits or demerits, merely because Statutes in question have not provided for any further appeal against the decision of the Appellate Authority and that any such attempt, would virtually amount to converting these proceedings under Article 226/227 of the Constitution of India, which are essentially proceedings seeking judicial review, into appellate proceedings - the moot question which arises in this matter is whether the Appellate Authority, in relying upon the 'new grounds', has violated the principles of natural justice, by not putting the petitioner to any notice that such 'new grounds' were proposed to be considered or by not

High Court not to go into the merits of the decision given by Appellate Authority for Advance Rulings (AAAR).

affording the petitioner opportunity to place on record the documentary evidences or clarifications in order to meet such 'new grounds' ? - in the facts and circumstances as presented from the record, Bench is satisfied that the ground of failure of natural justice and the consequent vitiation of the decision making process, has been made out - Since the Appellate Authority, in the present case, agreed with the petitioner's contention emphasized in the appeal memo that the expressions 'job work' and 'manufacture' are not mutually exclusive, the Appellate Authority, should have at least put the petitioner to notice that 'new grounds' were proposed to be considered for nevertheless upholding the conclusion of the Advance Ruling Authority - absence of any indication by the

High Court not to go into the merits of the decision given by Appellate Authority for Advance Rulings (AAAR).

Appellate Authority that it proposed to take into consideration the 'new grounds' or the failure on the part of the Appellate Authority to afford the petitioner an opportunity to produce documents or documentary evidences having direct bearing on the 'new grounds', in the opinion of the Bench, amounts to failure on the part of the Appellate Authority to adhere to the principles of natural justice. Such failure, vitiates the decision making process and affords a good ground for interference in the exercise of powers of judicial review. Petitioner had no opportunity to seek time to produce such documents or complain about failure of natural justice because the Appellate Authority did not even put the petitioner to notice that 'new grounds' were proposed to be considered at appeal stage. Appellate Authority was required to adhere to the principles of

High Court not to go into the merits of the decision given by Appellate Authority for Advance Rulings (AAAR).

natural justice in arriving at its decision. This requirement of adhering to the principles of natural justice is in fact required to be read into, in the absence of any specific stipulations in the Statute to the contrary. Failure to do so has not only resulted in violation of principles of natural justice, but also occasioned serious prejudice to the petitioner. Impugned order dated 2 July 2018 made by the Appellate Authority is set aside and the petitioner's appeal is remanded to the Appellate Authority for reconsideration on its own merits and in accordance with law. Petitioner may produce such additional material or documentary evidences within a period of one month from today. Appellate Authority is requested to dispose of the petitioner's appeal as expeditiously as possible and in any case, within a period of six months.

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