

GST Update

Weekly Update
17.10.2020

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 10.10.2020. 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

Due dates for GSTR-1

- **Notification No 74 & 75 /2020 – Central Tax Dated 15-Oct-2020**
- GSTR-1 for the tax period October 2020 to March 2021

Particulars	Type of Return	Period	Due Date
Turnover below Rs 1.5 crores	Quarterly	October 2020 to December 2020	13th January 2021
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Turnover above Rs 1.5 crores	Monthly	October 2020 to March 2021	11th of the subsequent month

Due dates for GSTR-3B

- **Notification No 76 /2020 – Central Tax Dated 15-Oct-2020**
- GSTR-3B for the tax period October 2020 to March 2021

Particulars	State	Due Date
Turnover above Rs 5 crores	All States	20th of the subsequent month
--do--	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	22nd of the subsequent month
Turnover below Rs 5 crores	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	24th of the subsequent month

Relaxations in filing of GSTR 9 & 9C for the tax period FY 2019-20

- **Notification No. 77 & 79/2020 – Central Tax dated 15th October 2020**
- Relaxations in filing of GSTR 9 & 9C for the tax period FY 2019-20
- Relaxation for registered taxpayers who have aggregate turnover below Rs 2 Crores to not to file GSTR 9 – Annual Return for the FY 2017-18 and FY 2018-19 extended to include registered taxpayers for the FY 2019-20 as well.
- Relaxation for the registered taxpayers who have aggregate turnover below Rs 5 Crores to not to file GSTR 9C – Reconciliation Statement for the FY 2017-18 and FY 2018-19, extended to include registered taxpayers for the FY 2019-20 as well.

- **Notification No. 78/2020 – Central Tax dated 15th October 2020**
- **New HSN disclosure norms with effect from 01st April 2021**

Aggregate Turnover in the preceding Financial Year	No of Digits of HSN Code
Below Rs 5 crores	4 (Not required for B2C invoices)
Above Rs 5 crores	6

- **Rule 67A of CGST Rules 2017** (Amended through Notification No. 79 /2020 – Central Tax dated 15th October 2020)
- Manner of filing NIL returns/liability/statements vide FORM GSTR 3B, GSTR 1 and CMP 08 through SMS facility
- A registered taxpayer who is required to file NIL returns/liability/statement in required form can file the same through Short Messaging facility (SMS).
- The details send by him through his registered number shall be verified through OTP facility.
- A Nil return or Nil details of outward supplies or Nil statement shall mean a return under section 39 or details of outward supplies under section 37 or statement under rule 62, for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B or FORM GSTR-1 or FORM GST CMP-08, as the case may be.

- **Fourth proviso to Rule 138E vide Notification No 79/2020 – Central Tax dated 15-Oct-2020**
- The Rule 138E (Blocking of E-way bill generation facility if returns are not filed for two consecutive tax periods) has been amended so as to provide relaxation in cases where E-way bills are generated during the period from 20th March 2020 till 15th October 2020, for all such class of person who have not furnished return in FORM GSTR-3B or FORM GSTR-1 or the statement in FORM GST CMP-08 for the tax period from February 2020 to August 2020.

- **Rule 142(1A) of CGST Rules 2017** (Amended by Notification No. 79 /2020 – Central Tax dated 15th October 2020)
- The proper officer can serve DRC-01 along with notice under Section 73(1) & 74(1) the CGST Act, 2017 specifying the details of amount payable.
- Before serving the said notice the proper officer **may** ~~shall~~ communicate the details of any tax, interest & penalty as ascertained by the said officer, in Part A of FORM GST DRC – 01A.
- Furnishing information in FORM GST DRC – 01A made discretionary to the proper officer.

Exemption to satellite launch services supplied by ISRO, Antrix Corporation Ltd and NSIL

- **Notification No. 05/2020 - Central Tax (Rate) dated 16th October 2020**
- Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited (S. No. 19C of Notification No.12/2017- Central Tax (Rate) dated 28th June 2017)
 - Exempted from GST



Legal Updates

Education Cess, SHEC and Krishi Kalyan Cess not entitled to adjust against Output GST Tax Liability

- UOI Vs Sutherland Global Services P Ltd; Writ Appeal No. 53 of 2020; Hon'ble Madras High Court
- The Hon'ble Madras High Court held that Education Cess (EC), Secondary and Higher Education Cess (SHEC), and Krishi Kalyan Cess (KKC) are not entitled to be adjusted against the Output GST Tax Liability.
- Earlier, a Single Judge held the issue in favour of the Assessee that they were entitled to adjust such unutilized CENVAT credit carried forward in its Electronic Ledger, which was so lying unutilized as on 30th June 2017, to be adjusted against the Output GST Liability in terms of Section 140 of the CGST Act, 2017.

Education Cess, SHEC and Krishi Kalyan Cess not entitled to adjust against Output GST Tax Liability

It has to be noted here that all the three aforesaid types of Cess were imposed by different Finance Acts.

The levy of Education Cess and Secondary and Higher Education Cess was however dropped and deleted by the Finance Act, 2015.

The Krishi Kalyan Cess was however abolished only with effect from July 1, 2017 vide Taxation Laws (Amendment) Act, 2017.

Now, the two member division Judge bench in their order in the dated 16-10-2020 held that the earlier judgement had erred in allowing the claim of the Assessee under Section 140 of the CGST Act on various grounds interalia:

Education Cess, SHEC and Krishi Kalyan Cess not entitled to adjust against Output GST Tax Liability

1. The character of the levy in the form of Cess is distinct and stand-alone levies;
2. Their input credit even under the Cenvat Rules which were applicable mutatis mutandis did not permit any such cross Input Tax Credit.
3. Explanation 3 would apply to the entire Section 140 of the Act and since it excluded the Cess of any kind carry forward or adjustment against Output GST liability.

Consequently, the court allowed the appeal of the revenue and held that the Assessee are not entitled to carry forward and set off of unutilized Education Cess, Secondary and Higher Education Cess, and Krishi Kalyan Cess against the GST Output Liability with reference to Section 140 of the CGST Act, 2017.



THANK YOU