

# GST Update

Weekly Update  
29.06.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 21.06.2019. 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

# Notifications and Circulars



- Seven CGST Notifications, One IGST (Rate) Notification and One Compensation Cess (Rate) notification issued last week
- Four CBIC GST Circulars issued
- One CBIC Press Release on GST Day issued

# GST Day 2019 - 'GST: One Nation, One Tax'

- <http://www.cbic.gov.in/resources//htdocs-cbec/press-release/GST-day-2019.pdf;jsessionid=8B023AAF24221A5E3B258A2F0A810901>
- The Government along with partners from the trade and industry celebrates the 2nd Anniversary of GST on 1st July 2019
- The main function would be held in New Delhi and be presided over by the Hon'ble Union Minister of Finance and Corporate Affairs Smt. Nirmala Sitharaman who is also the Chairperson of the GST Council. Hon'ble Minister of State for Finance, Shri Anurag Singh Thakur would also grace the occasion as the Guest of Honour. Dr. Ajay Bhushan Pandey, Revenue Secretary, Chairman CBIC, Members of CBIC, Secretaries and senior officers of various Ministries of Government of India and others shall be present. Senior functionaries of the apex chambers of commerce and industry would also be present in large numbers.

- During the event a book on “GST for MSME” will be released. The distinguished officers of CBIC who have put in hard work in the implementation of GST will also be awarded with ‘GST Commendation Certificates’ by the Hon’ble Union Minister of Finance and Corporate Affairs.
- **“A nation is made when taxes are paid”.**

# Exemption from filing Annual Returns by OIDAR service Providers

- **Notification No.30 /2019 – Central Tax dated 28<sup>th</sup> June, 2019**
- Exemption from furnishing of Annual Return / Reconciliation Statement in Form GSTR-9 / GSTR-9C for suppliers of Online Information Database Access and Retrieval Services (OIDAR services).
- The said persons shall not be required to furnish -
  - Annual return in FORM GSTR-9 under section 44(1) of the CGST Act read with rule 80(1) of the CGST rules.
  - Reconciliation statement in FORM GSTR-9C under section 44(2) of the CGST Act read with rule 80(3) of the CGST rules.

# Extension of time limit for filing GST ITC-04

- **Notification No. 32/2019 – Central Tax dated 28<sup>th</sup> June, 2019**
- Time limit for furnishing the declaration in FORM GST ITC-04 of the CGST rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to June, 2019
- Extended till 31<sup>st</sup> August, 2019

# Due date for GSTR-3B for July, 2019 to September, 2019

- **Notification No. 29/2019 – Central Tax dated 28<sup>th</sup> June, 2019**
- Return in FORM GSTR-3B of the CGST Rules for each of the months from July, 2019 to September, 2019 shall be furnished electronically through the common portal, on or before the 20<sup>th</sup> of the month succeeding such month.
- **Payment of taxes for discharge of tax liability as per FORM GSTR-3B**: Every registered person furnishing the return in FORM GSTR-3B of the CGST Rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date on which he is required to furnish the said return.



# Due date for GSTR-1 for July, 2019 to September, 2019

- **Notification No. 27 & 28 /2019 – Central Tax dated 28<sup>th</sup> June, 2019**
- Due Date for GSTR-1 of CGST Rules, 2017 by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from July, 2019 to September, 2019 extended till 11<sup>th</sup> day of the month succeeding such month.
- Due Date for GSTR-1 of CGST Rules, 2017 by such class of registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from July, 2019 to September, 2019 till 31<sup>st</sup> October, 2019

# Extension of due date of GSTR-7 for October, 2018 to July, 2019

- **Notification No. 26/2019 – Central Tax dated 28<sup>th</sup> June, 2019**
- The time limit for furnishing the return by a registered person required to deduct tax at source under the provisions of section 51 of the CGST Act in form GSTR-7 of the CGST Rules, 2017 for the period October, 2018 to July, 2019
- Extended till 31<sup>st</sup> August, 2019

# Last Date for Annual Return for the period from the 1st July, 2017 to the 31st March, 2018

- **Removal of Difficulties Order No. 6/2019-Central Tax dated 28<sup>th</sup> June, 2019**
- Last Date for furnishing of the annual return under section 44(1) of the CGST Act, and reconciliation statement for the period from the 1st July, 2017 to the 31st March, 2018
- Extended to 31<sup>st</sup> August, 2019
- Explanation Clause after section 44(2) shall read as-
- *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 August, 2019*

# Amendment to CGST Rules, 2017

- **Notification No. 31/2019 – Central Tax dated 28<sup>th</sup> June, 2019**
- **Rule 10A on Furnishing of Bank Account Details inserted:**  
Taxpayers are required to furnish bank account information on the portal within 45 days of the grant of registration or the due date of GSTR-3B, whichever is earlier.
- Effective Date- 28<sup>th</sup> June, 2019
- **Violation of Rule 10A** - GST registration is liable to be cancelled of a person not furnishing the details required as per Rule 10A
- Rule 21 of the CGST Rules, 2017
  - Clause (d) i.e *“violates the provision of rule 10A”* inserted in rule 21 of CGST Rules, 2017
  - Effective Date- 28<sup>th</sup> June, 2019

# Amendment to CGST Rules, 2017 (Contd)

- **Rule 32A inserted w.e.f 1<sup>st</sup> July, 2019**
- For the purpose of charging GST, the value of supply of good or services shall not include the value of Kerala Flood Cess charged thereon
- 32A. Value of supply in cases where Kerala Flood Cess is applicable.- The value of supply of goods or services or both on which Kerala Flood Cess is levied under clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of section 15 of the Act, but shall not include the said cess.
- Effective date- 1<sup>st</sup> July, 2019; However, implementation of Kerala Flood Cess has been postponed. It will now be implemented w.e.f 1<sup>st</sup> August, 2019

# Amendment to CGST Rules, 2017 (Contd)

- **Rule 46 and Rule 49 amended**
- A proviso has been inserted to provide the requirement of Quick Response (QR) code on tax invoice and bill of supply, subject to certain conditions and restrictions, as may be specified.
- Effective date = To be Notified

# Amendment to CGST Rules, 2017 (Contd)

- **Fungibility of integrated tax, central tax, State tax or Union territory tax or cess in the Electronic Cash Ledger**
- Rule 87 amended
- A new Sub-rule 13 has been inserted to provide that a registered person can transfer any amount of tax/interest/penalty/fee to any other head in the electronic cash ledger, In this regard, form GST PMT-09 has also been introduced.
- Effective Date= To be notified

# Amendment to CGST Rules, 2017 (Contd)

- **Rule 138(10) and 138E have been amended** - Proviso has been inserted to provide that the validity of e-way bill may be extended within eight hours from the time of its expiry.
- Rule 138E has been amended to provide that taxpayers claiming the benefit of notification number 02/2019-Central Tax dated 07 March 2019 shall not be allowed to fill form GST EWB-01 if the return has not been filed for two consecutive quarters.



# Amendment to CGST Rules, 2017 (Contd)

- **Amendment to GSTR-9 format:-** Tables of Annual Return have been amended to provide the details from April 2018 to March 2019 instead of April 2018 to September 2018;
- Instructions of table 8A has been amended to provide that FORM GSTR-2A generated on 1 May 2019 shall be auto-populated in table 8A.
- Formats of Forms REG-01, REG-07, REG-12, GSTR-04, RFD-05 and DRC-03 have also been changed to suit the amendments.
- Effective date = 28 June 2019

# GST on additional /penal interest (Contd)

- **Circular No. 102/21/2019-GST dated 28<sup>th</sup> June, 2019**
- Penal interest would form part of value of supply, in case it is intrinsically related to supply of goods and/or services and is charged by the supplier of such goods and/or services, irrespective of the manner in which the penal interest is recovered.
- Penal interest would be exempted if it is charged by an entity engaged in the business of providing loans/advances.

# GST on additional /penal interest (Contd)

- **Case – 1:** X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. However, X gives Y an option to pay in installments, Rs 11,000/- every month before 10th day of the following month, over next four months (Rs 11,000/- \*4 = Rs. 44,000/-). Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional / penal interest amounting to Rs.500/- per month for the delay. In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional / penal interest amounting to Rs. 500/- per month for each delay in payment

# GST on additional /penal interest (Contd)

- Applicability of GST
- **Case 1:** As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the amount of penal interest is to be included in the value of supply. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

# GST on additional /penal interest (Contd)

- **Case – 2:** X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd. allows Y a period of four months to repay the loan and an additional / penal interest @ 1.25% per month for any delay in payment.
- **Applicability of GST**
- **Case 2:** The additional / penal interest is charged for a transaction between Y and M/s ABC Ltd., and the same is getting covered under Sl. No. 27 of notification No. 12/2017-CT(Rate) dated 28.06.2017. Accordingly, in this case the 'penal interest charged thereon on a transaction between Y and M/s ABC Ltd. would not be subject to GST, as the same would not be covered under notification No. 12/2017-CT(Rate) dated 28.06.2017. The value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

## Clarification on POS

- **Circular No. 103/22/2019-GST dated 28<sup>th</sup> June, 2019**
- Clarification regarding determination of place of supply
- Services in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc
- Such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in Section 12(2) or Section 13(2){ Not 12(3)} of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.

## Clarification on POS (Contd)

- Supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India
- Place of supply in case of performance based services is to be determined as per the provisions contained in Section 13(3)(a) of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process
- In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in Section 13(2) of the IGST Act {Not 13(3)(a)}.

# Processing of wrongly mapped refund applications

- **Circular No. 104/23/2019-GST dated 28<sup>th</sup> June, 2019**
- Processing of refund applications in FORM GST RFD-01A submitted by taxpayers wrongly mapped on the common portal
- Some taxpayers were administratively assigned to the Central tax authority/ State authority but was mapped to the State tax authority / Central tax authority on the common portal
- The application has been electronically transferred by the common portal in cases where the said tax authority is not the one to which the taxpayer has been administratively assigned.



# Processing of wrongly mapped refund applications (Contd)

- As per para 2(e) of Circular No. 79/53/2018-GST dated 31.12.2018, the proper officer of the State tax authority should electronically re-assign the said application to the designated jurisdictional proper officer. It has, however, been reported that the said re-assignment facility is not yet available on the common portal.
- The application should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal.
- After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably on the common portal so that all subsequent refund applications are transferred to the correct jurisdictional tax authority.

# Treatment of secondary or post-sales discounts under GST

- **Circular No. 105/24/2019-GST dated 28<sup>th</sup> June, 2019**
- **Post sales discounts governed by the provisions of section 15(3)(b) of the CGST Act**
- If the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer's end, then the post sales discount given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject to the fulfilment of provisions of section 15(3) of the CGST Act.

# Treatment of secondary or post-sales discounts under GST (Contd)

- However, if the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the “ITC”) of the GST so charged by the dealer.

# Treatment of secondary or post-sales discounts under GST (Contd)

- If the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer, under section 15 of the CGST Act. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer in view of second proviso to section 16(2) of the CGST Act.

# Treatment of secondary or post-sales discounts under GST (Contd)

- Where post-sales discount granted by the supplier of goods is not permitted to be excluded from the value of supply in the hands of the said supplier not being in accordance with the provisions contained in section 15(3) of CGST Act. It has already been clarified vide Circular No. 92/11/2019-GST dated 7th March, 2019 that the supplier of goods can issue financial / commercial credit notes in such cases but he will not be eligible to reduce his original tax liability.
- The dealer will not be required to reverse ITC attributable to the tax already paid on such post-sale discount received by him through issuance of financial / commercial credit notes by the supplier of goods.

## Refunds by DFS and DPSs

- **Circular No. 106/25/2019-GST dated 29<sup>th</sup> June, 2019**
- **Duty Free Shops(DFS) and Duty Paid Shops(DPS):** -The international airports, house retail shops of two types –
- “Duty Free Shops” which are point of sale for goods sourced from a warehoused licensed under Section 58A of the Customs Act, 1962 and duty paid indigenous goods and
- “Duty Paid Shops” retailing duty paid indigenous goods.
- Procurement and supply of imported / warehoused goods: The procedure and applicable rules as specified under the Customs Act are required to be followed for procurement and supply of such goods
- Procurement of indigenous goods: - All indigenous goods would have to be procured by DFS or DPS on payment of applicable tax when procured from the domestic market.

## Refunds by DFS and DPSs (Contd)

- Supply of indigenous goods by DFS or DPS established at departure area of the international airport beyond immigration counters:
- Supply made by such retail outlets to eligible passengers has been exempted vide notification No. 11/2019-Integrated Tax (Rate) and 01/2019-Compensation Cess (Rate) both dated 29.06.2019
- The retail outlets will supply such indigenous goods without collecting any taxes from the eligible passenger and may apply for refund of all applicable Central tax, State tax, Integrated tax, Union territory tax and Compensation cess paid by them on all inward supplies of indigenous goods received for the purposes of subsequent supply of such goods to the eligible passengers.

## Refunds by DFS and DPSs (Contd)

- Such retail outlets will not be eligible for input tax credit of taxes paid on such inward supplies and the same will have to be reversed in accordance the provisions of the CGST Act read with the rules made :thereunder.
- No refund of tax paid on input services, if any, will be granted to the retail outlets.
- **Manual filing of refund claims:** Till the time the online utility for filing the refund claim is made available on the common portal, these retail outlets shall apply for refund by filing an application in FORM GST RFD-10B, as inserted vide notification No. 31/2019-Central Tax dated 28.06.2019 manually to the jurisdictional proper officer



## Refunds by DFS and DPSs (Contd)

- The scheme shall be effective from 01.07.2019 and would be applicable in respect of all supplies made to eligible passengers after the said date.
- In other words, retail outlets would be eligible to claim refund of taxes paid on inward supplies of indigenous goods received by them even prior to 01.07.2019 as long as all the conditions laid down in Rule 95A of the CGST Rules and this circular are fulfilled.
- Rule 95A has been inserted and form GST RFD-10B has also been introduced.
- The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule



# GST Legal Updates

# High Court denies Bail in GST Fraud Case



Case of Pankaj Agarwal Vs UOI reported in 2019-TIOL-1351-HC-Chhattisgarh-GST

## Facts

Applicant is the Director/Proprietor of the firms M/s Mangal Commercial Private Limited, Raipur and M/s S.K.T. and Sons, Bilaspur. Allegation is that M/s Hind Infra Buildcon (HIB) is a bogus entity created for the purpose of originating irregular and inadmissible ITC to pass on to its beneficiaries. Recipients of M/s HIB were created as an additional layer to create a web of such transactions to misguide the authorities and to shift the burden and responsibility to some pseudo-characters fabricated by master minds of such rackets. Firms which are major beneficiaries of aforesaid transactions are being created, owned, operated, controlled and managed by the present Applicant. Allegation is that total quantum of circular/semi-circular transactions made through the aforesaid bogus entities is to the tune of more than Rs.500 Crores which deprived the Government Exchequer of more than

# High Court denies Bail in GST Fraud Case



Rs.500 Crores which deprived the Government Exchequer of more than Rs.100 Crores of GST by way of creating and utilising irregular and inadmissible ITC by the Applicant. Applicant has been arrested by the competent authority and he is in jail since 7.5.2019. Bail application is filed u/s 439 of the CrPC by the applicant in the matter of his arrest for offence punishable u/s 132 and s.16 of the CGST Act, 2017.

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

Allegations made against the Applicant, the evidence collected by the prosecution, the submissions put-forth on behalf of the parties and further considering the seriousness of the offence and involvement of the money in the offence, Bench is not inclined to release the Applicant on bail - Bail application rejected.

## 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**