

# GST Update

Weekly Update  
03.11.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 27.10.2018. 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 Central Tax Notification amending CGST Rules, 2017 issued
- One Press releases on GST Practitioners examination in December, 2018 issued
- MSME Flyer and Booklet on GST initiatives for MSMEs issued

# Feedback and Action Room (FAR) for MSMEs

- [http://www.cbic.gov.in/resources//htdocs-cbec/gst/FAR\\_MSME.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/FAR_MSME.pdf)
- DGGST is the nodal agency to run the Feedback and Action Room (FAR) for MSMEs
- FARs to receive and collate issues raised by nodal officers in 80 nodal offices for the purpose
- Nodal officers to report all grievances to FARs
- Issues raised to be escalated to CBIC and GSTN
- Details of all nodal officers, format for grievance sheet and reports is available at above link

# Three publications for benefit of MSMEs

- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/GST MSMEs Booklet.pdf;jsessionid=253B98F128811B27FD5B0DA2358FFD38>
- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/MSME Flyer.pdf>
- Three publications – MSME Flyer, MSME booklet on GST initiatives for MSMEs and Sectoral publications containing FAQs for MSMEs issued

# Examination for confirmation of enrolment of GST Practitioners

- <http://www.cbic.gov.in/resources//htdocs-cbec/press-release/press-releaseenglish-01-11-2018.pdf;jsessionid=EC88187AAE3652FA16370729C73CB904>
- Next examination for GST Practitioners fixed on 7.12.2018 from 1100 hrs to 1330 hrs
- The registration portal for exam scheduled on 7.12.2018 will be activated on 16<sup>th</sup> November, 2018 and will remain open up to 25<sup>th</sup> November 2018.
- For convenience of candidates, a help desk will also be set up, details of which will be made available on the registration portal.
- The applicants are required to make online payment of examination fee of Rs. 500/- at the time of registration for this exam.

# Amendment to CGST Rules, 2017

- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-60-central-tax-english-2018.pdf;jsessionid=1C267862A14C83C2CF77BE62376BD6AB>
- **Rule 83A on Examination of Goods and Services Tax Practitioners inserted in CGST Rules, 2017**
- GST Practitioners referred to in rule 83(1)(b) of CGST Rules(Sales tax practitioner or tax return preparer under the existing law for a period of not less than five years) and those registered under 83(2) of CGST Rules need to pass the examination being conducted by NACIN
- Frequency of Examination: Twice in a year
- Examination centres: Across India at designated centres

# Amendment to CGST Rules, 2017 (Contd)

- **GST Practitioners Exams**
- **Period for passing the examination and number of attempts:**  
GSTP required to pass the examination within two years of enrolment; if a person is enrolled as a goods and services tax practitioner before 1st of July 2018, he shall get one more year
- For GST Practitioners in terms of rule 83(1)(b) viz sales tax practitioner or tax return preparer under the existing law for a period of not less than five years, time period will be as specified in second proviso to rule 83(3) i.e 18 months.



# Amendment to CGST Rules, 2017 (Contd)

- Nature of examination.- Computer Based Test; one question paper consisting of Multiple Choice Questions.
- Qualifying marks.- fifty per cent of the total marks
- Pattern and Syllabus of the Examination- 2 hours and 30 minutes; 100 MCQs; Max- 200 Marks; Qualifying Marks-100; No negative marking
- Syllabus- CGST/SGST/UTGST/IGST Act(s); The GST (Compensation to States) Act; CGST/SGST/IGST/UTGST Rules; Notifications, Circulars and orders issued from time to time

# Amendment to CGST Rules, 2017 (Contd)

- **Rule 109A**
  - First Appellate Authority for both department as well as taxpayers in respect of decision or order passed by the Deputy or Assistant Commissioner or Superintendent,
    - Any officer not below the rank of Joint Commissioner (Appeals)
- [ Earlier it was additional commissioner mentioned in the rule]

# Amendment to CGST Rules, 2017 (Contd)

- Rule 142A- Procedure for recovery of dues under existing laws inserted in the CGST Rules
- A summary of order issued under any of the existing laws creating demand of tax, interest, penalty, fee or any other dues which becomes recoverable consequent to proceedings launched under the existing law before, on or after the appointed day shall, unless recovered under that law, be recovered under the Act and may be uploaded in FORM GST DRC-07A electronically on the common portal for recovery under the Act and the demand of the order shall be posted in Part II of Electronic Liability Register in FORM GST PMT-01.

# Amendment to CGST Rules, 2017 (Contd)

- Rule 142A (2)- Where the demand of an order uploaded under sub-rule (1) is rectified or modified or quashed in any proceedings, including in appeal, review or revision, or the recovery is made under the existing laws, a summary thereof shall be uploaded on the common portal in FORM GST DRC-08A and Part II of Electronic Liability Register in FORM GST PMT-01 shall be updated accordingly.”.

# Amendment to CGST Rules, 2017 (Contd)

- **FORM GST REG-16 Application for Cancellation of Registration**
- against serial number 7, for the heading, the following heading shall be substituted, namely:-
- “In case of transfer, merger of business and change in constitution leading to change in PAN, particulars of registration of entity in which merged, amalgamated, transferred, etc.”;

# Amendment to CGST Rules, 2017 (Contd)

- Following instructions inserted in the form GST REG-16:
- “In case of death of sole proprietor, application shall be made by the legal heir / successor before the concerned tax authorities. The new entity in which the applicant proposes to amalgamate itself shall register with the tax authority before submission of the application for cancellation. This application shall be made only after the new entity is registered.
- Before applying for cancellation, please file your tax return due for the tax period in which the effective date of surrender of registration falls or furnish an application to the effect that no taxable supplies have been made during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration).”.

# Amendment to CGST Rules, 2017 (Contd)

- In FORM GSTR-4, in the Instructions, for Sl. No. 10, the following shall be substituted, namely:-
- “10. Information against the Serial 4A of Table 4 shall not be furnished.”
- In the said rules, for FORM GST PMT-01 relating to “Part II: Other than return related liabilities”, a new form substituted
- New forms GST DRC-7A for Summary of the order creating demand under existing laws inserted
- New form FORM GST DRC-08A for Amendment/Modification of summary of the order creating demand under existing laws inserted



# GST PORTAL UPDATES



## New Functionality

- **Assessment & Adjudication; Form GST ASMT- 01, 03 & 05-  
*Application for Provisional Assessment***
- If taxpayer is unable to determine either the value or tax rate for the goods / services dealt in, then he/she can now file an application to the jurisdictional tax officer for provisional assessment.
- Taxpayers have also been provided with facility to reply to notice seeking additional information, by the tax official, on an application for provisional assessment made.
- In case application is accepted and provisional assessment order is issued, taxpayer can now submit security to officer (both online and offline) and start making payment of tax due in periodical return, as specified in the order.
- *(refer Section 60 of CGST Act, 2017 and Rule 98 of CGST Rules 2017)*

- **Assessment & Adjudication; Form GST ASMT- 08; *Application for Release of Security***
- After finalisation of provisional assessment process, with the issue of final assessment order, taxpayer can now file application for withdrawal of security.
- *(refer Section 60 of CGST Act, 2017 and Rule 98 (6) of CGST Rules 2017)*

# New Functionality

- **Assessment & Adjudication; Form GST ASMT- 11**
- In case any discrepancy is found in return furnished by registered person, on the basis of risk parameters or by initiation of suo-moto process, tax officer can issue a notice, informing the user of such discrepancies and seek clarification from that person.
- Registered person may either accept such discrepancies and pay tax, interest and penalty amount arising from such discrepancies and inform the same to the tax officer or furnish an explanation for the discrepancy. This facility has now been made available to taxpayers.
- *(refer Section 61 of CGST Act, 2017 and Rule 99(2) of CGST Rules 2017)*

# New Functionality

- **Assessment & Adjudication; Form GST ASMT- 17**
- Taxpayers have been provided with a facility to file an application for withdrawal of the summary assessment order on the GST Portal.
- *(refer Section 62 of CGST Act, 2017 and Rule 100(4) of CGST Rules 2017)*

- **Appeals and Revision; Date of Hearings & Adjournments;**  
***Generation of Cause list***
- When a date of personal hearing is granted by the First Appellate Authority/ Revisional Authority or a hearing is adjourned, the same is communicated to both the parties on the GST Portal.
- A Cause list of all such dates is maintained in the GST Portal, on real time basis. This Cause list can be Printed/ Saved in PDF by taxpayers.

# New Functionality

- **Refund on account of Export of Services, with statement upload facility, enabled.**
- Facility to claim refund on account of export of services, with payment of tax, has been enabled on the GST portal for the taxpayers with upload of statement 2
- Refer section 54(1) of CGST Act, 2017 and Rule 89(2)(c) of CGST Rules, 2017

# New Functionality



- **Refund on account of assessment/provisional assessment/ Appeal/ any other order enabled**
- The taxpayers can not file online application to claim refund on account of assessment/provisional assessment/ Appeal/ any other order on the GST Portal
- Refer section 54(1) of the CGST Act, 2017



# GST Legal Updates



# Challenge to Payment of IGST in Imports under Advance Authorisation(AA) – HC rules in revenue Favour

## Case of Vedanta Ltd Vs UoI reported in 2018-TIOL-153-HC-MAD-GST

Writ Petition was filed by the Petitioner seeking inter-alia

- that the conditions S.No. 2(c) of Notification No 79/2017-Customs dated 13th October, 2017 is inter alia arbitrary, unconstitutional and violative of Article 14 of the Constitution of India and quash the same.
- that paragraph 1 of Notification No 33/2015-20 dated 13th October, 2017 is inter alia arbitrary, unconstitutional and violative of Article 14 of the Constitution of India and quash the same.
- Appropriate directions to the respondents to allow the petitioner to import without payment of Integrated Tax under the Advance Authorization licences which were issued to them without enforcing the restrictive "Pre-Import" condition under S. No. 2(c) of Notification No 79/2017-Customs dated 13th October, 2017 and Notification No 33/2015-20 dated 13th October, 2017.

# Challenge to Payment of IGST in Imports under Advance Authorisation – HC rules in revenue Favour (Contd)

- The Hon'ble High Court dismissed the Writ Petition and held as under:
- By not allowing exemption of IGST at the time of import, no benefit in the AA scheme is altered by the Government - choice of policy is for the decision maker, in this case the Government, to make and not for the Court - It is not open for the petitioner to chose one scheme and insist the government to modify that scheme to its convenience - It has not been established before this court that the decision suffers from perversity, irrationality or arbitrariness.

# Payment of Interest on delayed Refunds

## Case of Apar Industries Vs UoI reported in 2018-TIOL-149-HC-MUM-GST

### Facts

Writ Petition was filed by the Petitioner being aggrieved by the non-payment of interest on the amount of Rs.5.52 crores of refund already granted as well as refund of balance amount along with interest. Petitioner had filed a refund of Rs.52.97 crores along with interest thereon in respect of tax paid on exported goods under section 16 of the IGST Act

Contention of the Revenue that there is a invoice mismatch/error which resulted in delay in refunding amount of Rs.52.52 crores and hence no interest is payable.

# Payment of Interest on delayed Refunds (Contd)

## The High Court held as under

Circulars and FAQs, inter alia, deal with grant of refund in spite of Invoices mismatch/ error, as indicated by SB005 but do not deal with grant of interest even for the period when there is Invoice mismatch/ error - issue of grant of interest for delaying refund does requires factual determination as to the type of Invoices mismatch, who was responsible for the same and who, if any, and how, was the same corrected –

As this exercise would be best done by the adjudicating authorities under the Act after hearing the parties, petition is not entertained –

Petitioner advised to make a representation to the adjudicating authority who would consider the same and after hearing the Petitioner, pass a speaking order, preferably within a period of twelve weeks from receipt of the Petitioner's representation.

## **Levy under Rajasthan APMC Act is Fee and not Cess and therefore not abolished after rollout of GST**

### **Civil Writ Petition No.1451/2018 in the Rajasthan High Court**

Rajasthan High Court has held that the levy under section 17 of the Rajasthan Agriculture Produce Marketing Act, 1961 is a ' Fee ' and not a cess and therefore, the same is not abolished after the rollout of GST.

The Imarti Lakdi Vyapari Sansthan had filed petition contending that the State Government has no power to charge tax/cess payable under the provisions of Rajasthan Agriculture Produce Marketing Act, 1961 from its members. It was contended that the cess on the purchase and sale of timber from the members of the petitioner society is illegal, as the same is not an agricultural produce. It was also contended that after the introduction of GST, the impugned cess cannot continue.

The High Court however negated such contentions.

## 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**