



GST : UPDATE AND AN OVERVIEW

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Abstract: - As per Article 366(12A), the Government of India(GOI) has enacted new Act namely Goods and Service Tax Act with effect from 1st July 2017. Goods and Service Tax (GST) means any tax on supply of goods, or services or on both except taxes on supply of the alcoholic liquor for human consumption.

Key Features:-

- Article 246:- Concurrent jurisdiction for levy & collection of GST by Central & State Govt.
- Article 269A :- Power to levy and collection IGST in the course of interstate trade or commerce including imports.
- Clause 19 :- Compensation for loss of revenue to states for five years on recommendation of Council for GST.
- GST on petroleum crude, high speed diesel, motor spirit(commonly known as Petrol), natural gas & aviation turbine fuel to be levied from later date as per recommendation of GST Council.
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Tax Administration:-

- In order to ensure single interface, all administrative control over 90% of taxpayers having turnover below Rs. 1.5 crore would vest with the administration and over 10% with the central tax administration. Further all administrative control over taxpayers having turnover above Rs. 1.5 Crore shall be divided equally in the ratio of 50% each for the Central and State tax administration.

- Powers under the IGST Act shall also be cross- empowered on the same basis as under CGST and IGST acts with few exceptions.
- Power to collect GST in territorial waters shall be delegated by Central Government to the states.
- Power to take intelligence based enforcement action over entire taxpayer's base would be with both central as well as state tax administration.

Return and Late Fee :-

- All taxpayers are required to file GSTR 3B form and pay tax on monthly basis.
- Tax payers with turnover up to Rs. 1.50 Cr are required to file information in form no. GSTR 1 on the quarterly basis. And other tax payers has file GSTR1 on monthly basis.
- On account of difficulties being faced by taxpayers in furnishing the Annual retruns in form GSTR-9, form GSTR-9A and reconciliation statement in form GSTR-9C, the GST council in it's 35th meeting held on 21.06.2019 extended the due date for furnishing these retruns / reconciliations statements for the financial year 2017-18 till 31-08-2019 and latter extended up to 31/01/2020.
- Late fee has been completely waived for all taxpayer's in case of form GSTR-1, form GSTR-3B and form GSTR-4 for the months and quarters July 2017 to September 2018 are furnished after 22.22.2018 but on or before 31.03.2019.
- From October 2017onwards, the amount of late fee for late filing of form GSTR-3B payable by the registered person is as follows :
Whose tax liability for that month was NIL will be Rs.20/- per day instead of Rs.200/- per day.
Whose tax liability for that month was no NIL will be Rs. 50/- per day instead of Rs. 200/- per day.

New Return System :-

New return system is simple with two main annexure. First is for reporting details of outward supplies (form GST ANX-1) and the second for availing Input tax credit (form GST ANX-2) based on invoices, etc. uploaded by supplier.

Invoices can be uploaded continuously by the supplier and can be continuously viewed and accepted by the recipient for availing input tax credit. This process would ensure that very large part of the return is auto-populated based on the invoices

uploaded by the buyer and the supplier. Simply put, the process would be “UPLOAD – LOCK– PAY” for most tax payers.

-Taxpayers would have the facility to create his profile based on nature of supplies made and received. The information which a taxpayer would be shown and would be required to fill in the return would depend on his profile.

-NIL return filers (no purchase and no sale) shall be given facility to file return by sending SMS.

-There shall be quarterly filing of return for the small taxpayers having turnover up to Rs. 5 Cr as an optional facility.

-Quarterly return shall be similar to main return with monthly payment facility but for two kinds of registered persons –small traders making only B2C supply or making B2B + B2C supply. For such taxpayers, simplified returns have been designed called Sahaj and Sugam. In these returns, details of information required to be filled is lesser than that in the regular return.

-New return design provides facility for amendment of invoice and also other details filed in the return. Amendment shall be carried out by filing of a return called amendment return. Payment would be allowed to be made through the amendment return as it will help save interest liability for the taxpayers.

-In order to give ample opportunity to taxpayers as well as the system to adapt, the GST Council in its 35th meeting held on 21.06.2019 has decided to introduce the new return system in a phased manner, as described below:

-Between July, 2019 to September, 2019, the new return system (FORM GST ANX-1 & FORM GST ANX-2 only) to be available for trial for taxpayers. Taxpayers to continue to file FORM GSTR-1 & FORM GSTR-3B as at present;

-From October, 2019 onwards, FORM GST ANX-1 to be made compulsory. Large taxpayers (having aggregate turnover of more than Rs. 5 crores in previous year) to file FORM GST ANX-1 on monthly basis whereas small taxpayers to file first FORM GST ANX-1 for the quarter October, 2019 to December, 2019 in January, 2020;

-For October and November, 2019, large taxpayers to continue to file **FORM GSTR-3B** on monthly basis and will file first **FORM GST RET-01** for December, 2019 in January, 2020. 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 ANX-2** may be viewed simultaneously during this period but no action shall be allowed on such **FORM GST ANX-2**;

-From October, 2019, small taxpayers to stop filing **FORM GSTR-3B** and to start filing **FORM GST PMT-08**.

-They will file their first **FORM GST RET-01** for the quarter October, 2019 to December, 2019 in January, 2020;

-From January, 2020 onwards, **FORM GSTR-3B** to be completely phased out.

E way bill system :

-The introduction of e-way (electronic way) bill is a monumental shift from the earlier “Departmental Policing Model” to a “Self-Declaration Model”.

-New provisions in the e-way bill system have been introduced such as the auto calculation of distance based on PIN codes for the generation of e-way bill and blocking the generation of multiple e-way bills on one invoice.

-The generation of e-way bill would be barred if a supplier or recipient does not file GST returns for 2 consecutive tax periods. The GST Council in its 35th meeting held on 21.06.2019 decided that the Rule 138 E of the CGST rules, pertaining to blocking of e-way bills on non-filing of returns for two consecutive tax periods, be brought into effect from 21.08.2019.

Electric Vehicles :

-The Council in its 36th meeting held on 27.07.2019 decided to reduce the GST rates on electric vehicles from 12% to 5% and charger or charging stations for electric vehicles from 18% to 5% w.e.f. 01.08.2019.

-Hiring of electric buses (of carrying capacity of more than 12 passengers) by local authorities has been exempted from GST w.e.f. 01.08.2019.

Electronic Invoicing:

The Council in its 35th meeting held on 21.06.2019 decided to introduce electronic invoicing system in a phase-wise manner for B2B transactions. The Phase 1 is proposed to be voluntary and it shall be rolled out from Jan, 2020.

Real Estate :

GST shall be levied at effective rate of 5% on residential properties outside affordable segment and 1% on affordable housing properties.

-Definition of affordable housing: A residential house/flat of carpet area of up to 90 sqm in non-metropolitan cities/towns and 60 sqm in metropolitan cities having value up to Rs. 45 lakhs (both for metropolitan and non-metropolitan cities). Metropolitan Cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR).

-GST exemption on TDR/ JDA, long term lease (premium), FSI: Intermediate tax on development right, such as TDR, JDA, lease (premium), FSI shall be exempted only for such residential property on which GST is payable.

Conditions for new tax rate:

-Input tax credit shall not be available

-80% of inputs and input services [other than capital goods, TDR/ JDA, FSI, long term lease (premiums)] shall be purchased from registered persons. On shortfall of purchases from 80%, tax shall be paid by the builder @ 18% on RCM basis.

-Tax on cement purchased from unregistered person shall be paid @ 28% under RCM, and on capital goods under RCM at applicable rates.

-New rate has become applicable from 01.04.2019.

-One time transition option given to real estate firms to continue to pay tax at the old rates (effective rate of 8% or 12% with ITC) on on-going projects (buildings where construction and actual booking have both started before 01.04.2019) which have not been completed by 31.03.2019.

Recent Amendments:

-Scope of input tax credit has been widened, and it would now be made available in respect of the following:

-Most of the activities or transactions specified in Schedule III

-Motor vehicles for transportation of persons having seating capacity of more than thirteen (including driver), vessels and aircraft Services of general insurance, repair and maintenance in respect of motor vehicles, vessels and aircraft on which credit is available Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force.

-The order of cross-utilization of input tax credit has been rationalized.

-Commissioner empowered to extend the time limit for return of inputs and capital sent on job work, up to a period of one year and two years, respectively.

-Place of supply in case of job work of any treatment or process done on goods temporarily imported into India and then exported without putting them to any other use in India, would be outside India.

-The following transactions to be treated as no supply (no tax payable) under Schedule III:

-Supply of goods from a place in the non-taxable territory to another place in the nontaxable territory without such goods entering into India;

-Supply of warehoused goods to any person before clearance for home consumption;

-Supply of goods in case of high sea sales.

-Registered persons may issue consolidated credit/debit notes in respect of multiple invoices issued in a Financial Year.

-Amount of pre-deposit payable for filing of appeal before the Appellate Authority and the Appellate Tribunal capped at Rs. 25 Cr and Rs. 50 Cr respectively.

-Recovery can be made from distinct persons, even if present in different State/Union territories.

-In principle approval has been given for creation of a Centralized Appellate Authority for Advance Ruling (AAAR) to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue. This would be implemented once the law is amended.

-Existing tax incentive schemes of Central or State governments may be continued by respective government by way of reimbursement through budgetary route. The schemes, in the present form, would not continue in GST.

-There would be a single cash ledger for each tax head. The modalities for implementation would be finalized in consultation with GSTN and the Accounting authorities.

-Free Accounting and Billing Software shall be provided to Small Taxpayers by GSTN.

-Scheme of refunds of taxes paid by Duty Free / Duty Paid Shops on indigenous goods when supplied to eligible passengers.

References:-

www.cbic.gov.in

www.cbic.gst.gov.in