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ICAI-GST

NEWSLETTER

A Newsletter from The Institute of Chartered Accountants of India on GST





Certificate Course on GST at Alleppey



Conference on GST at Aurangabad



Lecture Meeting on GST at Ahmedabad



Seminar on GST at Hyderabad



Study Circle Meeting on GST at Agra



Two Days Conference on GST at Nashik



Workshop on GST at Bhurj



Workshop on GST at Kolkata

President's Communication



My Esteemed professional colleagues,

Indian economy is expected to be benefitted in the long term since Goods and Services Tax (GST) will bring more transparent and tax compliant structure resulting in generation of more revenue to the government as well as benefits to the business, industry and consumers. The total GST revenue for the month of September accrued to Governments stands at Rs. 92,150 Crore aggregating as CGST revenue at Rs. 14,042 crore, SGST revenue at Rs. 21,172 crore, 1GST revenue at Rs. 48,948 crore (of which 1GST from imports in September 2017 is Rs. 23,951 crore) and Compensation Cess at Rs. 7,988/- crore (of which Rs. 722 crore is Compensation Cess from imports in the month).

To alleviate the problems faced by the SME's, certain decisions have been taken by the GST Council, which are welcomed by everyone. The important decision taken are enhancement of limit of aggregate turnover for composition scheme Rs. 75 Lacs to Rs. 1 Crore, threshold exemption of Rs. 20 lacs (10 Lacs in special category state except for J&K) extended in case of inter-state supply of services, postponement of TDS/TCS Provisions and RCM liability on purchases made from unregistered dealer upto 31st March, 2018.

We are continuing to play our role as "Partner in GST Knowledge Dissemination" in the best interest of the nation

and undertaking various initiatives from time to time to help stakeholders in understanding law and to support the Government by making important suggestions. ICAI has recently launched two new publications namely "Background Material on Seamless Credit" and "Handbook on GST for Service Providers". These two publications are available on the website www.idtc.icai.org for free download in soft copy as well as online purchase option.

The above website of Indirect Taxes Committee of ICAI, too holds good for the offline webcasts, while offering regular indirect taxes updates, articles, information on upcoming programmes/ seminars, e-publication on GST, etc., to all its registered users. I advise all concerned stakeholders to get themselves registered at the website.

Let us explore the maximum benefit of all initiatives relating to GST and play the coveted role of a partner-in-nation-building.

With best wishes,

N. S. Vikamsey

CA. Nilesht S. Vikamsey
President, ICAI

25 October 2017



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CONTENTS

- GST updates 5-11
- Forthcoming Certificate Course on GST 11
- Articles
 - 1. Availability of Refund in Textile Sector 12-15
 - 2. Impact of GST on Automobile Dealers Industry 16-19
- FAQs on IT / ITES 20-22
- Forth Coming Events Under the Aegis of Indirect Taxes Committee 22
- ICAI's Contribution for Smooth Implementation of GST as Partner in Nation Building 23
- Publication 23



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GST UPDATES

GST Revenue Figures – As on 23rd October, 2017

The Goods and Services Tax (GST) was introduced on 1st of July, 2017. The total number of GSTR 3B returns filed for the month of September 2017 is 42.91 lakhs (as on 23.10.2017).

The last date for payment of GST as well as filing of GSTR 3B return for the month of September 2017 was 20th October, 2017.

The total revenue of GST paid under different heads (upto 23rd October, 2017) for the month of September 2017 is Rs. 92,150/- crore. The total CGST revenue is Rs. 14,042 crore, SGST revenue is Rs. 21,172 crore, IGST revenue is Rs. 48,948 crore (of which IGST from imports in September 2017 is Rs. 23,951 crore) and Compensation Cess is Rs. 7,988/- crore (of which Rs. 722 crore is Compensation Cess from imports in September 2017)

[CBEC Press Release dated 24th October, 2017]

Authorized officer for enrollment of Goods and Services Tax Practitioner

The Central Board of Excise & Customs vide Circular No. F. No. 349/75/2017-GST dated 18th October, 2017 clarified that Assistant Commissioner/Deputy Commissioner, having jurisdiction over the place as the officer authorized to approve or reject the said application for enrolment as Goods and Service Tax Practitioner submitted by applicant in FORM GST PCT-1 in terms of sub-section (1) of section 48 of the Central Goods and Services Tax Act, 2017 read with sub-rule (2) of rule 83 of the Central Goods and Service Tax Rules, 2017.

It is also clarified that the applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be specified by the applicant in Item 1 of Part B of FORM GST PCT-1.

Clarification on movement of goods on approval basis

The Central Board of Excise & Customs vide Circular No. F. No. 10/10/2017-GST dated 18th October, 2017 clarified that goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017.

It is also clarified that this clarification would be applicable to all goods supplied under similar situations.

Clarification on taxability of printing contracts

The Central Board of Excise & Customs vide Circular No. F.

No. 354/263/2017-TRU dated 20th October 2017 clarifies the taxability of printing contracts e.g. books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies.

Taxability in the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

Taxability in case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

CBEC to Redistribute Cases in Jurisdictions to Reduce Pendency of Cases With Commissioners (Appeal)

In order to clear the pendency of cases as on 30th June 2017 before the Commissioners of Central Excise and Service Tax (Appeals), the CBEC will redistribute the cases pending in the jurisdiction of a Principal Chief/ Chief Commissioner of Central Excise and Service Tax, among other Commissioner rank officers posted in that jurisdiction.

[Press Release dated 17th October, 2017]

Waiver of late fee on filing of GSTR-3B for August and September, 2017

In view of the difficulties being faced during the return filing process and in order to further facilitate taxpayers, the CBEC has decided to waive the late fee on filing of GSTR- 3B for the months of August and September, 2017. The necessary software changes are being carried out in the IT system. Electronic cash ledger of the taxpayers who have already paid the late fee on filing of GSTR-3B either for the month of August or September, 2017 or those who pay such fee before the necessary changes are carried out in the IT system will be credited with the amount of late fee so paid by them. The same has been notified by Central Government vide *Notification No. 50/2017-Central Tax dated 24th October, 2017*

[Press Release dated 24th October, 2017]

Reduction in GST Rate on Food preparations for free distribution to economically weaker sections

The Central Government vide Notification No. 39/2017-Central Tax (Rate) dated 18th October, 2017 has notified the central tax

rate @2.5 % on intra-State supplies of goods in case of food preparations which put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government with effect from 18th October, 2017.

When the supplier of such food preparations produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory concerned to the effect that such food preparations have been distributed free to the economically weaker sections of the society under a programme duly approved by the Central / State Government concerned, within a period of 5 months from the date of supply of such goods or within such further period as the Jurisdictional commissioner of the Central/ State/ Union Territory tax as the case maybe, may allow in this regard. Similar notification has been brought under UTGST Act, 2017 vide Notification No. 39/2017-Union Territory Tax (Rate) dated 18th October, 2017.

IGST Rate in case Export on supply of taxable goods by a registered supplier to a registered recipient

The Central Government vide Notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 exempts the intra-State supply of taxable goods in excess of the amount calculated @0.05 % by a registered supplier to a registered recipient w.e.f. 23rd October, 2017 for export is subject to fulfilment of the following conditions namely:

- i. Supplier shall supply the goods to the Recipient on a tax invoice.
- ii. Recipient shall export the said goods within a period of 90 days from the date of issue of a tax invoice by the Supplier.
- iii. Recipient shall indicate the GSTIN of the Supplier and the tax invoice number issued by the Supplier in respect of the said goods in the shipping bill or bill of export.
- iv. Recipient shall be registered with an Export Promotion Council or a Commodity Board recognized by the Department of Commerce.
- v. Recipient shall place an order on Supplier for procuring goods at concessional rate and a copy of the same shall also be provided to the jurisdictional tax officer of the Supplier.
- vi. Recipient shall move the said goods from place of Supplier –
 - a. directly to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported; or
 - b. directly to a warehouse from where the said goods shall be move to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported;
- vii. If the Recipient intends to aggregate supplies from multiple Suppliers and then export, the goods from each Supplier shall move to a warehouse and after aggregation, the Recipient shall move goods to the Port, Inland Container Depot, Airport or Land Customs Station from where they shall be exported;
- viii. In case of situation referred to in condition (vii), the

Recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the Supplier as well as to the jurisdictional tax officer of such supplier; and

- ix. When goods have been exported, the Recipient shall provide copy of shipping bill or bill of export containing details of Goods and Services Tax Identification Number (GSTIN) and tax invoice of the Supplier along with proof of export general manifest or export report having been filed to the Supplier as well as jurisdictional tax officer of such supplier.

(Terms referred in above conditions shall be read as Supplier – Registered Supplier, Recipient – Register Recipient, Warehouse – Registered Warehouse)

Further, the Supplier shall not be eligible for the above-mentioned exemption if the registered recipient fails to export the said goods within a period of 90 days from the date of issue of tax invoice.

Similar notification has been brought under UTGST Act, 2017 vide Notification No. 40/2017-Union Territory Tax (Rate) dated 23rd October, 2017 and under IGST Act, 2017 vide Notification No. 41/2017--Integrated Tax (Rate) dated 23rd October, 2017.

Amendment in CGST Rules

The Central Government vide Notification No. 47/2017 – Central Tax dated 18th October, 2017 hereby makes the following rules further amend of the Central Goods and Services Tax Rules, 2017, namely:-

1. Earlier in 3rd provisosub-rule (1) of rule 89 of CGST Rules, 2017 only recipient may file the application for claiming refund in case deemed exports supplies. Now supplier may also file application for claiming refund subject to condition as specified in notification. Central Government vide Notification No. 47/2017 – Central Tax dated 18th October, 2017 substituted the 3rd proviso in the following manner namely: -

“Provided also that in respect of supplies regarded as deemed exports, the application may be filed by

 - a. the recipient of deemed export supplies; or
 - b. the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund”
2. In rule 96A, in sub-rule (1), in clause (a), after the words “after the expiry of three months”, the words “, or such further period as may be allowed by the Commissioner, “shall be inserted.
3. In FORM GST RFD-01,
 - a. for “Statement-2”, the Statement shall be substituted
[Notification No. 47/2017 – Central Tax dated 18th October, 2017]

Supplies as Deemed Exports

The Central Government vide Notification No. 48/2017 – Central Tax dated 18th October, 2017 notified the following supplies of

goods as deemed exports :-

1. Supply of goods by a registered person against Advance Authorisation.
2. Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation.
3. Supply of goods by a registered person to Export Oriented Unit.
4. Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017- Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

[Refer Notification No. 48/2017- Central tax dated 18th October, 2017]

Evidences for Claiming Refund under Deemed Export

The Central Government vide Notification No. 49/2017 – Central Tax dated 18th October, 2017 notifies the following as evidences which are required to be produced by the supplier of deemed export supplies for claiming refund, namely:-

1. Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
2. An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
3. An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

No RCM on procurements made from unregistered person till March 31, 2018

The Central Government vide Notification No. 38/2017 – Central Tax (Rate) dated 13th October, 2017, has amended Notification No. 8/2017 – Central Tax (Rate) dated 28th June, 2017 by omitting proviso under Paragraph 1 which deals with the exemption limit of Rs. 5000 per day available to the registered person on procurement of goods or services from any or all unregistered suppliers. Now, exemption shall be available to all the registered persons till March 31, 2018 without any limit in case of supply procured from unregistered supplier.

Therefore, any registered person procuring taxable goods/ services from unregistered suppliers, shall not be required to pay CGST under reverse charge mechanism U/s 9(4) of CGST Act, 2017 till March 31, 2018 with effect from 13th Oct, 2017.

In case of goods, where tax is payable on reverse charge basis, the time of supply shall be the earliest of the following :

- Date of Receipt of Goods
- Date of payment to unregistered supplier
- Immediately following 30 days from the date of issue of invoice or any other document

Example: if good was received prior to 13th Oct, 2017 then

liability to pay reverse charges u/s 9(4) arises.

In case of services, where tax is payable on reverse charge basis, the time of supply shall be the earliest of the following :

- Date of payment to unregistered supplier
- Immediately following 60 days from the date of issue of invoice or any other document

Example: if service was obtained in the month of September for which invoice was issued on 10th Sep, 2017 and payment to an unregistered supplier is not made till 13th Oct, 2017 then there would not be any reverse charge liability on such transactions.

Similar notification is issued under the IGST Act vide Notification No. 32/2017 – Integrated tax (Rate) dated 13th October, 2017 and under the UTGST Act vide Notification No. 38/2017 – Union Territory tax (Rate) dated 13th October, 2017

Exemption from obtaining compulsory registration U/s 24 of CGST Act, 2017 in case of Inter State Supply of Services

Central Government vide Notification No. 10/2017 – Integrated Tax dated 13th October, 2017 has exempted the persons making inter-State supplies of taxable services and having an aggregate turnover not exceeding an amount of Rs. 20 lakhs in a financial year from obtaining registration.

However, for the following States aggregate turnover limit should not exceed Rs. 10 lakhs for availing exemption from registration for the States specified in Article 279A (4) (g) of the Constitution:

Arunachal Pradesh	Assam
Manipur	Meghalaya
Mizoram	Nagaland
Sikkim	Tripura
Himachal Pradesh	Uttarakhand

It may be noted that State of Jammu & Kashmir has opted for Rs. 20 Lacs threshold limit for exemption.

Turnover Limit for Composition Levy for CGST revised

Central Government vide Notification No. 46/2017- Central Tax dated 13th October, 2017 has revised the turnover limit for Composition Levy from Rs. 75 lakhs to Rs. 1 crore. Thus, an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed Rs.1 crore, may opt to pay tax under composition levy at prescribed rates i.e. 1%, 2.5%, 0.5% as the case may be under respective Acts.

However, for the following States turnover limit for composition levy is revised from 50 lakhs to 75 lakhs in the case of an eligible registered person:

Arunachal Pradesh	Assam
Manipur	Meghalaya
Mizoram	Nagaland
Sikkim	Tripura
Himachal Pradesh	

It may be noted that State of J & K and Uttarakhand have opted for Rs.1 Crore Turnover limit instead of Rs.75 Lacs.

No GST on advance received against supply of GOODS for

assesses having aggregate turnover up to Rs. 1.5 crore

Central Government vide Notification No. 40/2017 – Central Tax dated 13th October, 2017 has provided that the registered person whose aggregate turnover in the preceding financial year did not exceed Rs. 1.5 crores or the registered person whose aggregate turnover in the year in which such person has obtained registration is likely to be less than Rs. 1.5 crores and who did not opt for the composition levy under section 10 of the CGST Act, 2017 as the class of persons who shall pay the central tax on the outward supply of goods at the time of issue of invoice by the supplier or the last date on which supplier is required under section 31(1) to issue the invoice with respect to the supply and shall accordingly furnish the details and returns. Therefore such persons shall not be required to pay tax on advance received against future supplies of goods.

Amendment in CGST Rules, 2017

Central Government vide Notification No. 45/2017- Central Tax dated 13th October, 2017 has made following amendments in the CGST Rules, 2017:

- 1. Sub- rule 3(A) in Rule – 3 is substituted** - A person who has been granted registration on a provisional basis under Rule 24 or who has been granted certificate of registration under sub-rule (1) of Rule 10 may opt to pay tax under Section 10 (i.e. under composition scheme) with effect from the first day of the month immediately succeeding the month in which he files an intimation in FORM GST CMP-02, on the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before the 31st day of March, 2018, and shall furnish the statement in FORM GST ITC-03 within a period of ninety days from the day on which such person commences to pay tax under Section 10. Provided that the said persons shall not be allowed to furnish the declaration in FORM GST TRAN-1 after the statement in FORM GST ITC- 03 has been furnished.
- 2. Insertion of new Rule 46A** - Registered person supplying taxable as well as exempted goods/services to an unregistered person can issue single “invoice-cum-bill of supply”.
- 3. Amendment under Rule 54(2)** – Insurance or a banking company or a financial institution, including a non-banking financial company shall raise ‘consolidated tax invoice’ in lieu of ‘tax invoice’ for the supply of services made during a month at the end of the month.
- 4. Proviso inserted under Rule 62(1)** - Registered person opting to pay tax under composition scheme with effect from first day of a month which is not the first month of a quarter shall furnish the return in FORM GSTR-4 for that period of the quarter for which he has paid tax under composition scheme and shall furnish the returns as applicable to him for the period of the quarter prior to opting to pay tax under

Section 10.

- 4. Amendment in Form GSTR – 1 & 1 A** – Column titled “Cess” are inserted in the return forms.
- 5. Insertion of new instruction for Form GSTR – 4** - i.e. “For the Tax periods July 2017 to September 2017 and October 2017 to December 2017, serial 4A of Table 4 shall not be furnished.” serial No. 4A of Table 4 deals with inward supplies received from a registered supplier (other than supplies attracting reverse charge).

Liability to pay Tax under RCM by RBI in case of services procured from Member of Overseeing Committee

The Central Government vide Notification No. 33/2017- Central Tax (Rate) dated October 13, 2017 has inserted new entry no. 10 in the list of services under RCM Notification, to provide that supply of services by the members of Overseeing Committee constituted by the Reserve Bank of India (RBI) to the RBI, shall be covered under RCM i.e. Tax thereon shall be paid by RBI under RCM.

Similar notification is issued under the IGST Act vide Notification No. 34/2017- Integrated Tax (Rate) dated 13th October, 2017 and under the UTGST Act vide Notification No. 33/2017 – Union Territory tax (Rate) dated 13th October, 2017.

Registered person is liable to pay GST under RCM in specified cases

The Central Government vide Notification No. 36/2017-Central Tax (Rate) dated October 13, 2017 has inserted new entry no. 6 in the list of goods under RCM Notification, to provide that ‘used vehicles, seized and confiscated goods, old and used goods, waste and scrap’ supplied by CG, SG, Union Territory or Local Authority to any registered person, shall be covered under RCM i.e. tax thereon shall be paid by such registered person under RCM.

Similar notification is issued under the IGST Act vide Notification No. 37/2017- Integrated Tax (Rate) dated 13th October, 2017 and under the UTGST Act vide Notification No. 36/2017 – Union Territory tax (Rate) dated 13th October, 2017.

State Tax officers can process refund under CGST Act, 2017

Central Government vide Notification No. 39/2017 – Central Tax dated 13th October, 2017, has specified that the proper officers appointed under the respective SGST Act, 2017 or UTGST Act, 2017 to act as proper officers to process refund under Section 54 or Section 55 of the CGST Act, 2017 in respect of a registered person who applies for the sanction of refund and located in the territorial jurisdiction of such officers.

Extension of time limits for filing GSTR 4, GSTR 5A, GSTR 6 and Form GST ITC-01

The Central Government has extended the time limit for filing the following forms:

FORM	DESCRIPTION	DUE DATE PRIOR TO THIS NOTIFICATION	EXTENDED DATE
GSTR 4 for the quarter July to September, 2017	Form for submission of return by compounding Tax payer	18th October, 2017	15th November, 2017

GSTR 5A for the month of July, August & September, 2017	Form for submission of return by persons providing online information and database access or retrieval services from a place outside India to unregistered person in India	July: 15th Sep, 2017 August: 20th Sep, 2017 Sep: 20th Oct, 2017	20th November, 2017
GSTR 6 for the month of July, August & September, 2017	Form for submission of return by input service distributor	July: 8th August, 2017 August: 23rd Sep, 2017 Sep: 13th Oct, 2017	15th November, 2017
GSTR ITC-01	Form to be filed by registered person after taking registration to the effect that he is eligible to avail the input tax credit	30 days from the date person becoming eligible to avail ITC	31st October, 2017

Order for removal of difficulties in implementation of Composition Scheme

The Central Government vide Order No. 01/2017-Central Tax dated October 13, 2017 has issued Central Goods and Services Tax (Removal of difficulties) Order, 2017, to clarify the following in relation to composition scheme:

No denial for availing composition benefit by Supplier of food even if exempt services are also provided

If a person supplies goods/services referred to in clause (b) of paragraph 6 of Schedule II of the CGST Act, 2017 [i.e. Supply of food & beverages with services] and also supplies any exempt services, including services by way of extending deposits, loans or advances in so far as the consideration is in form of interest or discount, the said person shall be eligible for the composition scheme under Section 10 of the CGST Act, 2017, subject to the fulfilment of all other conditions specified therein.

Value of exempt services are not includible for calculating aggregate turnover:

Further, for computing aggregate turnover in order to determine eligibility for composition scheme, value of supply of such exempt services shall not be taken into account.

Leasing of vehicles purchased and leased prior to 1st July, 2017 would attract GST at a rate equal to 65% of the applicable GST rate (including Compensation Cess).

In order to provide relief to old/existing leases of motor vehicles purchased and leased prior to 1st July, 2017. The changes are as given below:-

- Leasing of vehicles purchased and leased prior to 1st July, 2017 would attract GST at a rate equal to 65% of the applicable GST rate (including Compensation Cess).
- Such vehicles when sold shall attract GST of 65% of the applicable GST rate (including Compensation Cess).
- Sale of vehicles by a registered person who had procured the vehicle prior to 1st July, 2017 and has not availed any Input Tax Credits of Central Excise duty, VAT or any other taxes paid on such motor vehicles, would also be subject to 65% of applicable GST rate (including Compensation Cess).

This notification would be valid till 1st July, 2020.

CGST Notification No. 37/2017-Central Tax (Rate) may be referred for the details.

Exemption from IGST and Compensation cess on goods imported by EOU's

Central Government had previously issued Notification No. 52/2003 – Customs dated 31st March, 2003 to provide that specified goods when imported by EOU's are exempt from the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 and the additional duty, if any, leviable thereon under section 3 of the Customs Tariff Act.

Further to aforesaid Notification, the Central Government vide Notification No. 78/2017 dated 13th October, 2017- Customs has now prescribed that goods when imported by EOU's are exempt from integrated tax and compensation cess as well leviable thereon under subsections (7) and (9), respectively of section 3 of the Customs Tariff Act.

However, such exemption from integrated tax and compensation cess shall apply upto 31st March, 2018.

Exemption from IGST and Compensation cess on goods imported by importers covered under various schemes.

Central Government vide Notification No. 79/2017 - Customs dated 13th October, 2017 has amended various notifications to provide that goods when imported by importers under following schemes are exempt from integrated tax and compensation cess etc. leviable thereon:

- Export Promotion Capital Goods (EPCG) Scheme
- Advance Authorisation scheme
- Advance Authorisation Scheme for annual requirement
- Advance Authorisation Scheme for deemed export
- Advance Authorisation Scheme for export of prohibited goods

However, such exemption from integrated tax and compensation cess shall apply upto 31st March 2018 only.

All Industry Rates of Duty Drawback revised

Central Government vide Notification No. 89/2017-Cus (NT), dt. 21.09.2017 has revised the All Industry Rates (AIRs) of Drawback and made certain changes in customs and central excise duty drawback rules, 2017 which takes effect from 1.10.2017. Major changes include:

- Definition of Drawback has been amended to provide for drawback of Customs and Central Excise duties excluding integrated tax leviable under sub-section (7) and compensation cess leviable under sub-section (9)

respectively of section 3 of the Customs Tariff Act, 1975 chargeable on any imported materials or excisable materials used in the manufacture of goods exported

- ii) For fixation of Brand Rate, Circular no. 23/2017-Customs dated 30.6.2017 may be referred. The brand rate facilitation would continue and there should be no delay by Customs formations in finalizing applications for fixation of brand rate;
- iii) In respect of export product, NIL rate or no rate of drawback is provided in AIR Schedule, an application for fixation of Brand Rate under Rule 7 of the Drawback Rules, 2017 shall not be admissible. In such situation, application for fixation of Brand Rate may be filed under Rule 6 of the Drawback Rules, 2017;
- iv) In terms of Rule 20 of the Drawback Rules, 2017, brand rates of drawback already fixed will not apply for exports with Let export date 1.10.2017 onwards. Thus, exporters will be required to apply fresh for fixation of Brand Rate under Rule 6 or Rule 7 for such exports;

Further, to facilitate trade, tenure of the Drawback Committee constituted by the Central Government has been extended to 31.12.2017 to expeditiously look into issues arising from the changes made. Exporters may send representations with supporting data and documents, if any, for higher rates than rates provided for the consideration of the committee;

Clarification in Custom Valuation Rules

Central Government vide Notification No. 91/2017-Cus (NT), dt. 26.09.2017 has amended the following in relation to Custom Valuation Rules, 2017 :

- i) Definition of term place of importation "Place of Importation" means the customs station where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse therefore costs incurred up to the place of importation is includible in the transaction value.
- ii) In consequence of the decision taken in the case of M/s Wipro Ltd. Vs Assistant Collector of Customs-2015 the loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation, shall no longer be added to the CIF value of the goods.
- iii) The cost of transport of the imported goods to the port or place of importation are treated as loading, unloading and handling charges. Thus, only charges incurred for delivery of goods "to" the place of importation (such as the loading and handling charges incurred at the load port) shall now be includible in the transaction value.
- iv) By virtue of the 6th proviso to Rule 10 (2), costs related to transshipment of goods (from ports to ICDs; port to port, port to CFS, Airport to Airport etc.) within India will be excluded, providing uniform treatment to different modes of transshipment.

For further details aforesaid notification may be referred.

Clarification on Transitional Issues arising with respect to payment of service tax after 30th June, 2017

Certain assesseees have been facing the issue with regard to

availment of credit, arising out of payment of service tax due for the month of June 2017 on reverse charge basis post the GST regime by 5th/6th July 2017. These cases would be ones where the service was received before 1-7-2017 and payment for the value of the service was also made before 1-7-2017. Since the input tax credit in cases of payment under reverse charge would be available only after payment of service tax, the assesseees had doubts as to whether the details of credit should be included in the return in Form ST-3 or in Form GST TRAN-1.

In this regard, Central Government vide Circular No. 207/5/2017-Service Tax, Dated September 28, 2017 has clarified that the details of tax paid under reverse charge should be indicated in Part I of Form ST-3 in entries, I3.1.2.6, I3.2.2.6 and I3 3.2.6. Linked entries should be made in Part H of Form ST-3. In case the service tax return has already been filed by or after the due date, these details should be indicated in the revised return, the time of filing of which is 45 days from the date of filing of the return.

In order to give the compliant assesseees an immediate and viable window in which a revised return can be filed, all ST3 returns for the period 1-4-2017 to 30-6-2017 which have been filed upto and inclusive of the 31st day of August 2017, shall be deemed to have been filed on 31-8-2017. Thus, the time limit for filing revised return would be 15th October 2017 i.e. 45 days from the original return date being 31-08-2017. Once details of such credit are reflected in ST-3, the assessee may proceed to fill in the details in Form GST TRAN-1 which can be filed upto 31-10-2017 and can also be revised, if filed.

Further, the said circular also provides for Payment of service tax on or after 1-7-2017 as a consequence of detection of evasion or any other circumstances. This issue is relevant in cases where an assessee is not registered under ACES. In the registration module of ACES, there is a category of "non assessee registration". This may be used to obtain registration and make payment of service tax.

Amendment to list of Exempted Services

Central Government vide Notification No.12/2017- Central Tax (Rate), dated the 28th June 2017 and Notification No.9/2017-Integrated Tax (Rate), dated the 28th June, 2017 provided the list of services exempted under GST regime.

In this regard, Central Government vide Notification No. 30/2017- Central Tax (Rate) dated 29th September, 2017 and Notification No. 31/2017-Integrated Tax (Rate) dated 29th September, 2017 has amended the aforesaid notification to provide exemption from GST to the following service:

Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
Chapter 99	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).	Nil	Nil

Amendment to CGST Rules, 2017

Central Government vide Notification No. 36/2017 – Central Tax dated 29th September, 2017 has made the following amendment in the Central Goods and Services Tax Rules, 2017,

Rule no./Form no.	Existing Rule	New Rule	Impact
24	Every person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before 30th September, 2017 at his option, submit an application electronically in FORM GST REG-29 at the common portal for the cancellation of registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.	Every person registered under any of the existing laws, who is not liable to be registered under the Act may on or before 31st October, 2017 at his option, submit an application electronically in FORM GST REG-29 at the common portal for the cancellation of registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.	Before amendment, person registered under existing law who is not liable to be registered under the Act can apply for cancellation of registration granted to him upto 30th September, 2017. Now he can apply upto 31st October, 2017
118,119,120	Every person to whom the provision of sub section (11) of section 142 or section 141 or sub section (12) of section 142 applies, shall within a period of ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1 furnishing the required details under respective sections.	Every person to whom the provision of sub section (11) of section 142 or section 141 or sub section (12) of section 142 applies, shall within the period specified in rule 117 or such further period as extended by the Commissioner, submit a declaration electronically in FORM GST TRAN-1 furnishing the required details under respective sections.	Before amendment, person was mandatorily required to submit a declaration under Rule 118,119,120 electronically in FORM GST TRAN-1 within a period of 90 days Now such time period is as specified in Rule 117 or as extended.
FORM GST REG-29	Application for cancelation of provisional registration	Application for cancelation of Registration of migrated taxpayers	Heading of form changed.
FORM GST REG-29	Provisional ID	GSTIN	Requirement in (i) of Part A of Form GST REG-29 for provisional ID has been substituted by GSTIN

Facility of furnishing Letter of Undertaking extended to more exporters

Small exporters have brought to the notice of the Government the difficulties in furnishing bond with requisite bank guarantee. To facilitate exports under GST, it has been decided that the facility of furnishing Letter of Undertaking, in place of a bond,

for exporting goods or services or both shall be allowed to exporters and no bank guarantee will be required. The relevant notification for this shall be issued in due course.

The issue of cash blockage is expected to be partially addressed by this measure. More measures are under consideration.

FORTHCOMING CERTIFICATE COURSE ON GST

S. NO.	HOSTING BRANCH/ REGION	START DATE	END DATE
1	Bangalore Branch of SIRC of ICAI	11-Nov-2017	10-Dec-2017
2	Raipur Branch of CIRC of ICAI	5-Nov-2017	9-Dec-2017
3	Ahmedabad Branch of WIRC of ICAI	4-Nov-2017	3-Dec-2017
4	Indirect Taxes Committee of ICAI	4-Nov-2017	3-Dec-2017
5	Visakhapatnam Branch of SIRC of ICAI	3-Nov-2017	26-Nov-2017

AVAILABILITY OF REFUND IN TEXTILE SECTOR

GST has made some sea changes in the way the textile industry works. Post GST era is very typical in terms of compliances for the industry, as earlier only the big players or apparel retailers were required to do indirect tax compliances. Moreover, when Govt. denied the refund to the sector even with the existence of inverted duty structure the same added to the various problems to the industry. However the same is not true for different processes of the sector. Textile processing involves various elements. This article aims at eliminating the confusion surrounding the allowability of GST refunds to different activities of this sector.

Major activities of the textile sector:-

1. Yarn Processing and Fabric Making
2. Textile Processing (Process House)
3. Apparel Manufacturing

The availability of refund is discussed herewith in respect of each activity through a step by step process

Question: Whether these activities are Goods or Service?

Definitions of Goods and Service

(52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(68) "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

Textiles and Apparels

From going through above definitions it is very much clear that all the fabrics and apparels are goods being movable property and are taxable as goods only. In case of goods we need to see the tariff under which they fall, to ascertain the tax rate and their levability.

Processing of Textiles

The processing of textiles is done on the fabrics received from others. The process house carries out various processes such as dyeing, printing, finishing, polishing etc. Complete process is done on the goods received from others. Thus it qualifies essentially for the service and that too in the Job Work Service.

The same is also classified as service under Classification of Services issued by the CBEC as follows:-

Heading	Description
Group 99882	Textile, wearing apparel and leather manufacturing services
998821	Textile manufacturing services

Thus textile processing by processes houses is essentially a service u/s sec 2(102) of CGST Act 2017 and provisions related to service shall apply to it.

Tax rates

Question: What is the tax chargeable on textile fabrics and Apparels?

For this we should refer notification No. 1/2017 of Central Tax Rate, which specifies the tax rate of GST on Goods. This notification reads as follows in relation to textile fabrics and apparels.

Schedule I - 2.5%

S. No.	Chapter/Heading/Sub-heading/Tariff Item	Description of Goods
211.	5208 to 5212	Woven fabrics of cotton
212.	5301	All goods i.e. flax, raw or processed but not spun; flax tow and waste (including yarn waste and garneted stock)
213.	5302	True hemp (Cannabis sativa L), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garneted stock)
214.	5303	All goods i.e. textile bast fibres [other than jute fibres, raw or processed but not spun]; tow and waste of these fibres (including yarn waste and barneted stock)
215.	5305 to 5308	All goods [other than coconut coir fibre] including yarn of flax, jute, other textile bast fibres, other vegetable textile fibres, paper yarn
216.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
217.	5407, 5408	Woven fabrics of manmade textile materials
218.	5512 to 5516	Woven fabrics of manmade staple fibres
222.	61	Articles of apparel and clothing accessories, knitted or crocheted, of sale value not exceeding Rs. 1000 per piece
223.	62	Articles of apparel and clothing accessories, not knitted or crocheted, of sale value not exceeding Rs. 1000 per piece
224.	63	Other made up textile articles, sets, worn clothing and worn textile articles and rags, of sale value not exceeding Rs. 1000 per piece.

Schedule II – 6%

S. No.	Chapter/ Heading/Sub- heading/Tariff Item	Description of Goods
(1)	(2)	(3)
169.	61	Articles of apparel and clothing accessories, knitted or crocheted, of sale value exceeding Rs. 1000 per piece
170.	62	Article of apparel and clothing accessories, not knitted or crocheted, of sale value exceeding Rs. 1000 per piece
171.	63	Other made up textile articles, sets, worn clothing and worn textile articles and rags, or sale value exceeding Rs. 1000 per piece.

Tax Rate:-

In case of Textile Fabrics:- In all cases of fabrics tax rate is 5%.

In case of Apparels where the sale value per piece is below Rs.1000/- tax rate is 5% and otherwise the same is 12%.

In case of exports tax rate will be zero rated i.e. rate of tax will be zero automatically once it is classified as exports.

In Case of Textile Process

For this we should refer notification No. 11/2017 and 20/2017 of CGST Rate, which specified the levy of GST on Services. These read as follows in relation to textile processing at entry No 26.

(i) Services by way of job work in relation to-

(a) Printing of newspapers;

(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);

(c)

Tax Rate is 2.5% for CGST i.e. 5% for CGST+SGST or IGST

Taxability of Inputs and Input Services

Question: What is the tax chargeable on Inputs and Input Services received by textile industry and whether the credit is available?

Main Inputs in the textile process are yarns which are of 2 types, taxability of which are as follows:-

Schedule I – 2.5%

S. No.	Chapter/ Heading/ Sub-heading/ Tariff Item	Description of Goods
202.	5004 to 5006	Silk yarn
203.	5007	Woven fabrics of silk or of silk waste
204.	5104	Garneted stock of wool or of fine or coarse animal hair, shoddy wool
205.	5105	Wool and fine or coarse animal hair, carded or combed

206.	5106 to 5110	Yarn of wool or of animal hair
207.	5111 to 5113	Woven fabrics of wool or of animal hair
208.	5201 to 5203	Cotton and Cotton waste
209.	5204	Cotton sewing thread, whether or not put up for retail sale
210.	5205 to 5207	Cotton yarn [other than khadi yarn]

Schedule II – 6%

S. No.	Chapter/ Heading/ Sub-heading/ Tariff Item	Description of Goods
(1)	(2)	(3)
"132A	5401	Sewing thread of manmade filaments, whether or not put up for retail sale
132B	5402, 5403, 5404, 5405, 5406	Synthetic or artificial filament yarns
132C	5508	Sewing thread of manmade staple fibres
132D	5509, 5510, 5511	Yarn of manmade staple fibres";

(As amended by notification No 34/2017 (Central Tax Rate) dated 13.10.2017)

Schedule III – 9%

S. No.	Chapter/ Heading/ Sub-heading/ Tariff Item	Description of Goods
159	5402, 5404, 5406	All goods other than synthetic filament yarns", shall be substituted
160	5403, 5405, 5406	All goods other than artificial filament yarns", shall be substituted

(As amended by notification No 34/2017 (Central Tax Rate) dated 13.10.2017)

Natural fibre yarns such as cotton and silk are taxable @5% and synthetic and manmade fibre yarns are taxable @ 12%.

Taxability of Input Services

As discussed above processes relating textile fabrics are taxable @5%

The table in notification no 11/2017, contains a column No 5 which specifies the conditions, which are to be followed to avail the rate of tax specified. The condition appended in column no 5 are mandatory in nature in order to pay tax as per the rate of tax specified in column No 4.

In case of Textile processing there is no condition specified, thus this rate is absolute and no conditions are to be satisfied. There are conditions in this table attached to other entries like entry No. 11 such as GTA there is a condition specified as follows:-

S. No.	Chapter, Section or Heading	Description of Service	Rate (per Cent.)	Condition
(1)	(2)	(3)	(4)	(5)
		(iii) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). Explanation.- "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]

Thus a GTA service provider i.e. transporter cannot take any Input Tax Credit if the tax rate is to be taken as 5% (2.5% for CGST and 2.5% for SGST). However the credit of Input Tax is available to the recipient of service in case of GTA service.

No such condition is specified in case of textile processing. Thus all the fabrics/apparel processing done are covered under Entry no 26 of this notification and the same is taxable at the rate of 5% and credits are also available to all the recipient of services.

Refund of Overflow of Credit

Question: Whether refund is available for overflow of credit in case of textile fabrics/apparels or textile processing

For checking the allowability of refund we need to go through the refund provisions contained in sec 54 of CGST Act which read as follows:-

Sec 54

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

.....

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be

paid to the applicant, if such amount is relatable to—

(a) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;

(b) refund of unutilised input tax credit under sub-section (3);

(c)

We can see from subsection (3) that refund can be allowed only if it is a zero rated supply or if supply is under an inverted duty structure i.e. where Inputs are taxed at higher rate and output are taxed at lower rate.

In case of textile processing house various inputs such as dyes, colours, finishing agents, detergents are purchased at higher rate of taxes such as 18% and 28%. Further Input services of contractors are also taken at 18%. While the output services are eligible for tax @5%.

In case of textile fabrics and apparels various inputs such as yarns and other services are taxable @ 18%. While the output is eligible for tax @5%/12%.

Looking into this we can very well say that textile fabrics, apparels and textile processes are eligible for refund u/s 54(3) r/w sec 54(8). Refund will be 100% of Input Tax in case of exports and in case of domestic sales, it will be the amount of overflowed credit.

Now, there is another point in this discussion that in sec 54(3) it is also stated that in respect of the refunds the Govt can specify category of goods and services against the supply of which refund would not be eligible.

The Govt vide notification No 5/2017 of Central Tax has notified certain goods which are not eligible for refund of unutilised Input Tax Credit. The notification reads as follows:-

In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, heading, sub-heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).

Let us see those entries in that notification which are relevant to textile business.

S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)
1.	5007	Woven fabrics of silk or of silk waste

2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
7.	60	Knitted or crocheted fabrics [All goods]

Thus according to this notification, only the supply of fabrics is out of the purview of refunds under GST as the restriction is only for Goods specified under headings 50 to 55 & 60.

All the apparels are covered under chapter 61-63 and textile processing under chapter 99; and there is no restrictions for refunds to these goods.

There is another notification for such restriction which is notification No 15/2017 which is as follows:-

In exercise of the powers conferred by sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that no refund of unutilised input tax credit shall be allowed under sub-section (3) of section 54 of the said Central Goods and Services Tax Act, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act.

This notification covers only the construction services which are specified in schedule II clause 5(b).

Thus as per the above discussion the scenario of refund could be finalised as follows:-

Sl. No.	Process	Refund Allowed or not	Remarks
1.	Textile Fabrics	No Refund	Notification no 05/2017 (Central Tax)
2.	Textile Processing	Refund allowed	
3.	Apparels	Refund allowed	

It is only the supply of fabrics where refund is not allowed, otherwise refunds are allowed in all other cases of textile sector.

Impact on the Industry

There is a huge impact of this refund process, on the way industry runs, especially in the synthetic cloth sector. This impact has been described as below:-

Examples :-

Process	Value
Buy Chips from Petrochem Plant	100

Spinning and Ginning	100
Final Product : Fibre	200
Weaving	50
Grey Fabric	250
Dyeing and Printing	80
Final Fabric	330
Cutting, Stitching and Finishing	80
Apparels	410

Very few players in the industry work on fibre manufacturing. Most of the players in the industry buy fibre and then send the same to some weaver on job work for grey manufacturing and from thereon to some dyer and printer for dyeing and printing and after receiving the same sell this fabric or do further process of apparel manufacturing.

Due to this value chain the composite units who are vertically integrated are most benefitted since earlier they had to pay excise duty on the manufacture of fibres even though when they were using it for further manufacturing of fabric and due to this such composite units were on the same footing as that of such small processors.

Under GST regime these processors will have to buy fibre paying 12% GST whereas fabric is pegged at 5% GST without refunds. In such case if their value addition is not enough to cover this 7% gap then they will have to lose since refunds are not available. However Composite units are not required to pay GST on fibre manufacturing unless they supply such fibre, due to this they will not be in a position of credit surplus unlike these other units. Earlier this gap was even 13 % since the rate of tax on manmade fibre was 18%. However, the gap has been reduced still these Composite units are placed at a better position than the other disintegrated units.

Contributed by Jaipur Study Group



IMPACT OF GST ON AUTOMOBILE DEALERS INDUSTRY

The Indian auto industry is one of the largest in the world. The industry accounts for 7.1 per cent of the country's Gross Domestic Product (GDP). Almost 13% of the revenue from central excise is from this sector and claims a size of 4.3% of total exports from India. Despite its contribution to the economy and growth potential, this sector has been combating the hardship of high tax rates for substantially a long period of time now with central excise duty ranging between 12.5% to 30% coupled with introduction of multiple cesses at revenues whims and fancies, most recent being infrastructure cess.

Apart from the high tax rates, industry has seen extensive litigations on VAT v/s Service Tax tussle, valuation issues in case of PDI charges, warranties, taxation on handling charges and many more. Thus, introduction of GST shall be a breather for this sector wherein taxes on vehicle are 28% in GST regime along with the cess of 1% and 15%. However, this rate of taxation will be beneficial for this industry as full set-off of credits will be made available in the GST regime. Further, as per the Goods and Services (Compensation to States) Act, 2017, the compensation cess can be availed as credit and the same can be utilized against the payment of compensation cess in the same manner as per the rules applicable for input tax credit. This article focuses on the supply chain part of this industry i.e. the dealers network who play a very crucial role in the growth and prosperity of this industry and any adverse impact on dealerships shall have direct effect on the entire industry. Therefore, this article examines the intricacies of GST on Automobile Dealers.

Presently, dealers are paying following indirect taxes:

- Service tax (ST) on services both as provider and also as receiver under reverse/ joint charge;
- Value added tax (VAT)/Central sales tax (CST) on Sale of Vehicle/ Spares/ Accessories;

Procurement cost in the Current Regime:

Type of Vehicle	Vehicle Cost	Excise	CST	NCCD+AutoCess	Infra Cess	Total Tax	Purchase Cost
Motor Cycles	50,000	12.50%	1.10%	2.00%	1%	8,300	58,300
Small Cars	4,00,000	12.50%	1.10%	2.00%	1%	66,400	4,66,400
Mid-size Cars	7,50,000	24%	1.10%	2.00%	2.50%	2,22,000	9,72,000
Luxury Cars	20,00,000	27%	1.10%	2.00%	4%	6,82,000	26,82,000
SUVs	16,00,000	30%	1.10%	2.00%	4%	5,93,600	21,93,600

Procurement cost in the GST Regime:

Type of Vehicle	Vehicle Cost	IGST	Cess	Total Tax	Purchase Cost in GST	Reduction in Purchase Cost
Motor Cycles	50,000	28%	-	14,000	50,000	8,300
Small Cars	4,00,000	28%	1%	1,16,000	4,00,000	66,400
Mid-size Cars	7,50,000	28%	15%	3,22,500	7,50,000	2,22,000
Luxury Cars	20,00,000	28%	15%	8,60,000	20,00,000	6,82,000
SUVs	16,00,000	28%	15%	6,88,000	16,00,000	5,93,000

In GST regime, Automobile Dealers will be collecting and paying CGST and SGST (i.e. Central GST and State GST on intra-state sale of vehicles. Further, in case of inter-state sale of the vehicles, they will be collecting and paying IGST (i.e. Integrated GST, which is nothing but the summation of CGST + SGST). Impact of GST on various aspects is as examined below:

1) Impact on Credits:

Currently, automobile dealers are not able to avail CENVAT credit on the following indirect taxes paid by them:

- CST Paid on purchase of vehicle, spares, consumables, accessories and assets;
- Excise Duty paid on purchase of vehicles, spares, consumables and accessories;
- NCCD, Auto Cess and Infrastructure Cess paid on purchase of vehicles;
- CVD paid on any imported Spares, accessories and consumables;
- SBC paid on input services;
- Reversal of proportionate CENVAT credit of service tax due to trading activity - Showroom Rent, Advertisement expenses etc.

In GST Regime, all the above duties/ taxes will get subsumed, therefore dealers should be able to avail the input tax credit of all its procurements of goods/ services except for few restrictions laid in the CGST Act.

2) Impact on the procurement costs of vehicle:

Since, all of the above taxes get subsumed in the GST, therefore the procurement cost to that extent will come down as explained below in a tabulation format:

Note:

- Since IGST and cesses shall be fully available as credit in the GST regime, therefore they will not form part of purchase cost and can be set-off from output GST payable on sale of the vehicle.
- Presently, automobile parts, accessories, components manufacturers are charging excise duty on MRP value less abatement wherein the duty portion would be paid on the value higher than the transaction value, this leads to higher excise cost on the spare parts, accessories procured by such dealers. However, since the concept of MRP based taxation shall not continue in the in GST, therefore such additional costs would also come down for dealers.
- Procurements are assumed to be in the course of Inter-state. In case of intra-state procurements, currently VAT paid did not form part of cost and the same was available for utilization against output VAT.

As noted above, reduction in procurement cost is substantial as cascading of taxes was just adding to the cost in this sector.

3) Impact on the Sale Price:

Since, the procurement cost reduces in GST and if the benefit of the same is fully passed on to the consumer, then it leads to reduction in sale price of the vehicles as tabulated below:

Type of Vehicle	Sale Price Current Regime			Sale Price in GST Regime		
	Sale Price	VAT @ 14.5%	Total SP	Sale Price	IGST @ 28% (1%, 15% cess)	Total SP+
Motor Vehicle	61,215	8,876	70,091	52,500	14,700	67,200
Small Cars	4,89,720	71,009	5,60,729	4,20,000	1,21,800	5,41,800
Mid-size Cars	10,20,600	1,47,987	11,68,587	7,87,500	3,38,625	11,26,125
Luxury Cars	28,16,100	4,08,335	32,24,435	21,00,000	9,03,000	30,03,000
SUVs	23,03,280	3,33,976	26,37,256	16,80,000	7,22,400	24,02,400

Assuming that the sale price is at 5% mark-up above the purchase price. It is seen from the above calculation that overall reduction in the purchase cost per vehicle ranges from 16% to 34% and if full benefit of such reduced prices is passed on to the end consumers then sale price of vehicles can come down in the GST regime which will boost this sectors growth and must have largely positive impact due to invasion of GST.

(Note: Above illustrations are only for reference purpose. Actual impact could differ depending upon various factors)

4) Impact on Working Capital:

Following aspects will impact the working capital of the automobile dealers in the GST regime:

- a) Vehicle Transfers: Transfer of vehicle/ spares to other premises will be liable for GST if the transfer is in the course of inter-state trade. Further, if there are separate dealerships of a dealer and separate GST registration number is obtained for each such dealership, then transfer of any goods/ services between such dealerships will also be liable for GST. This shall block the working capital as the taxes needs to be paid from own funds and collection of taxes will be at a later date only when such goods/ services are eventually sold.

- b) Free Service Coupon vouchers: These coupons will be issued at the time of sale of the vehicle. As per the time of supply rule, GST on such coupons needs to be paid immediately on the date of issue of such vouchers. As per the policy of some manufacturers, the amounts in respect of such coupons will be redeemed to the dealers only once the customer brings the vehicle for repair to the workshop. Therefore, dealers would have to pay tax on such coupons immediately on its issue but the said taxes can be collected from the automobile manufacturers only when the vehicle comes for the repair leading to unnecessary blocking of funds in taxes.
- c) Vehicle Booking Advance: It is quite common in this sector that the vehicles will be booked in advance on payment of certain amount as token. Currently, VAT is not being paid on such advances as the same is payable at the time of sale of such vehicle. However, this luxury of holding advances without payment of taxes is clipped in the GST regime and taxes need to be paid on receipt of the booking advances also. Therefore, dealers either have to pay taxes on the advances out of its pocket or collect taxes extra even on the token advances.
- d) Commission, warranties, incentives: Currently, it is very difficult for dealers to pay service tax on accrual basis on the following incomes and thereby as a system or practice many dealers are

paying service tax on receipt basis:

- **Commission from Bankers/ Insurers:** As details of the commission will be provided by bankers/ insurers at a later date with constant changes involved. Therefore, generally dealers pay service tax on such receipts only upon receipt of commission;
- **Income from manufacturer:** Various commissions, incentives, reimbursements, warranty receipts etc. are received from manufacturer. Dealer don't pay taxes on these incomes on accrual basis as the same may or may not get approved by the manufacturer at a later date. Therefore, currently service tax is paid on receipt basis only when the amount is credited by the manufacturer and is reflected in the manufacturer's statement.

However, the luxury of paying taxes on receipt basis will not be accepted in the GST regime as everything will be system driven. Therefore, dealers will have to either get its system corrected with the bankers and manufacturers immediately to ensure smooth transition into the GST regime or else it would have to take the brunt of taxes on its own due to fault of its vendors.

5) Impact on Valuation:

- a) **Dealer of second hand vehicles**

It has been explicitly provided in the valuation rules that where

a taxable supply is provided by a person dealing in buying and selling of second hand goods then the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored. This shall very positively impact this industry as GST needs to be paid only on the difference value.

Further, Government has issued notification 10/2017-Central Tax (Rate), Providing exemption from payment of GST when a person who is dealing in buying and selling of second hand goods and who pays GST on value of outward supply of such second-hand goods under margin scheme [value as determined under rule 32(5)], he need not pay GST on purchases of old vehicles from under reverse charge mechanism.

- b) **Bundling of Car with accessories, warranty, handling charges:** Automobile dealers charge amounts for Sale of vehicle and also for various ancillary services such as insurance, extended warranty, accessories, logistics and handling, registration etc. It shall be imperative for the industry to understand whether the entire transaction shall be classified as separate supplies or whether it has to be classified as a 'composite supply' or as a 'mixed supply'. Ideally it should amount to composite supply as the vehicle remains the principle supply and other being incidental/ ancillary. Further, the issue of composite supply v/s mixed supply also needs to be tested in case of warranties, AMC's, repair works, painting jobs, body-building works etc. The principle of dominant nature test as laid down by supreme court in BSNL v/s UOI 2006-TIOL-15-SC-CT-LB would come in to play and the said principle needs to be applied and tested with greater force in GST regime. For instance, in case of comprehensive AMC contracts, the dominant intent is to keep the machine in the running condition and not to merely supply the goods, therefore even though the supply of goods may be of high value, they are still incidental to the principle requirement of maintenance and therefore it may be termed as a 'composite supply' of maintenance and GST would be levied accordingly. However, there are multiple other factors that also have to be looked into while deriving conclusion on these transactions involving supply of multiple goods and services in a single transaction and therefore facts of each case and the manner in which the transaction is undertaken remain crucial to draw an amicable conclusion. Therefore, if classification is not clearly carved out in the transaction/ agreement, then consequences of valuation issues could hit this industry with large scale litigation in the GST regime.

- c) **Insurance, Registration etc. as reimbursements:** Automobile dealer collects various amounts from customers which are mere reimbursements and are paid back as it is to someone else. In other words, these amounts are collected merely as a pure agent such as:

- Insurance of the vehicle;
- Temporary/ Permanent Registration charges,
- High Security Number Plate Charges;
- Credit Card Swiping Charges etc.

Currently, Service Tax is not paid on such values, if collected as a pure agent. However, at times dealer's charge adhoc amount to customers keeping certain margin on them above the actual amount incurred towards the same. In such a scenario, the provisions relating to Pure agent cannot come to their rescue and GST would need to be paid on the entire value received.

- d) **Road Tax/ Life Tax:** Currently, service tax or VAT is not paid on the Road Tax element. However, in the GST regime, value for the purpose of paying GST must also include Road Tax. Section 16 of the GST law clearly states that no taxes shall be allowed as reduction from the value except CGST, SGST and IGST. Therefore, duplication of taxes to this extent shall continue, however it would be interesting to see if these taxes paid can be otherwise claimed as deductions under the concept of Pure agents. However, such deduction may be objected by department as there is a specific inclusion for such taxes in the Act and deduction by virtue of pure agent as provided in rules cannot override the specific inclusion in the act. Therefore, appropriate decision making in this regard needs to be taken if not timely represented by the associations it would unnecessary increase cost for the consumers and litigation for the dealers.
- e) **Discounts:** Generally, dealers receive various discounts from its manufacturers based on targets, vehicles lifted, Special Customers, Year-End Discounts etc. It is pertinent to note that post supply discounts will not be allowed as deduction from the value if the same is not linked to any invoice. Therefore, discounts policy needs to be revisited and the same must be brought in line with the tax scheme to avoid taxes on high values.
- f) **Related Party Transactions:** Transaction value can be rejected if the transaction is with any related party or if the same is between distinct persons. Therefore, value in such cases needs to be calculated as per the valuation rules in the sequential manner as per the rules provided in this regard.
- g) **Valuation of commissions etc:** Currently, in case of various commissions received from the manufacturers such as 'Extended warranty' or 'Road side assistance', Service Tax is being paid only on commission element. However, in GST regime, such tax treatment may not be acceptable and dealers will have to pay GST initially on the entire value of the warranty receipts and the amounts charged by the manufacturer can later be taken as a credit. Adoption of this would require tremendous costs and efforts especially in a scenario where dealers face lot of difficulty in tracking them from various reports/ automated databases of the manufacturers.

6) Reduced current litigations:

Currently, the sector is facing disputes on the following areas:

- a) **Valuation in Servicing of vehicle:** Complexity in bifurcation of the material and labour component in the servicing of vehicle has led to multiple disputes as both the service tax and sale tax authorities demand taxes on a higher component.
- b) **Handling Charges:** Whether it is liable for VAT or Service Tax has led to demand of taxes from both the authorities and thereby disputes.
- c) **Registration charges:** Disputes were noted on applicability of service tax on various charges that are merely collected as pure agent such as temporary permanent registration etc.
- d) **Incentives:** It has been a matter of dispute at a various judicial forums as to whether the incentives received by the automobile dealers from the manufacturer whether amounts to any 'Service' to be liable for service tax.

Such disputes would end in the GST regime as the tax base for both CGST and SGST shall be same.

7) Impact on Transitional Credits:

To transfer the existing credits in the GST regime, condition has been kept that such credit must have been admissible in the GST regime. Therefore, dealers should be able to transfer the following credits to the GST regime:

- **Credit of Service Tax:** The same must be properly reflected in the last service tax returns with proper reflection of the same in form TRAN-1 to establish the claim. Further, service tax credit pertaining to cars, spares in stock can also be availed.
- **Excise Duty/ CVD:** Since, currently dealers are not availing the credit of excise duty & CVD. Therefore, they need to ascertain the value of stock as on the appointed day and based on the availability of the invoice, credit can be availed. Further, even if proper excise invoice is not available with the dealer, still a 60% of the CGST portion paid on outward supplies can be availed as credits as per the scheme provided in this regard. Further, the facility of Credit Transfer Document where value of goods is more than rupees 25000 per piece and bear the brand name of the manufacturer and are separately identifiable then manufacturer can transfer the credit of excise duty to dealers based on the 'credit transfer document' and a dealer can avail full credit of excise duty under the cover of such document. However, such document must be obtained within 30 days from the appointed date. Therefore, dealers must avail full advantage of this beneficial piece of legislation extended by the government.
- **VAT/SAD:** Similarly, if a dealer is not availing the credit of VAT/ SAD currently due to restriction in the state VAT law, then credit can be availed based on the ascertainment of stock as on appointed day. However, if the credit of VAT is being currently availed then the same needs to be properly reflected in the last VAT return to transfer such credits to the GST regime.
- **Credit of CST:** The same cannot be availed based on the stock availability as on the appointed day.
- **Entry Tax:** Credit of same can be availed subject to possession of appropriate documents for the same in states where such set off is permissible.

8) Impact due to Anti-Profitteering Measures:

Since, a dealer will be able to take the credit of goods lying in stock, the tax cost would decrease. This additional benefit accruing to a dealer is expected to be passed on to the end consumer by way of reduction in prices of goods and services. Further, a separate authority will be formed in the GST regime to monitor the non-compliance of the anti-profitteering matters. This measure will have an adverse impact on the entire industry especially when the pricing is pre-decided by the manufacturer and is a dynamic feature being guided by multiple other factors. It is also pertinent to note that presently dealers work on a very thin margins and their survival is purely on the volumes of business and in this scenario any further reduction in prices could have negative impact. However, if the benefit is passed on by the manufacturer to the dealers then this may not be as challenging also. It is already being observed that many large players in the industry have reduced prices of various models of their products in July 2017.

9) Other Procedural requirements and its impact:

- a) **Registration:** Dealers need to obtain separate registration for each state even if it pertains to the same dealership and covered under the same PAN. However, dealer can opt for

multiple registrations within the state for various dealerships.

- b) **Returns:** Compliance burden will be high in the GST regime as one has to file 12 returns broken into 3 parts and 1 annual return for each registration apart from ISD returns, if any. Further, returns filed will be matched online with the support of the IT infrastructure with the returns of the vendors/ customers. In case taxes are not paid by the vendors or if the returns are not filed by the vendors, then the credit of such taxes is denied to the customers. Therefore, timely payment of taxes, filing of returns needs to be ensured in the GST regime.
- c) **Accounting:** Coordination/ communication, flow of documents from various branches to accounts department should be before 10th of the subsequent month. Therefore, accounting function needs to be more robust, live and automatic. As far as possible, a dealer must map its accounting framework with other processes in an ERP environment and therefore finance & accounts department needs to be better structured to cope up with the needs of the GST regime.
- d) **IT Infrastructure:** In GST regime, businesses have to move from the manual environment to computerized environment. Only an efficient IT infrastructure and its best usage can help businesses meet the high compliance needs of the GST. If IT infrastructure is not optimally utilized, then it would be challenging for any business including real-estate sector to function efficiently in the GST regime. Further, in the computerized environment, physical interaction with the department officials would reduce substantially. ERP must be customized to make it capable to meet needs of the business as well as comply with GST.

Conclusion:

Migrating to the new tax regime could have substantial impact on the business houses. There would be a positive impact for those who are vigilant and tax compliant. The unorganized sector may have to adopt and adapt to continue in this new transparent regime. The negative impact of the GST can largely be averted if counter measures/ preparedness is in place. Businesses need to re-look and action must be taken on the following areas to reduce the adverse impact of GST:

- Contracts/ Agreements re-alignment to suit the needs of GST of breaking up into the multiple supplies, composite supplies or missing the supplies;
- Business re-structuring/ Transaction re-structuring needs to be assessed and implemented;
- Understanding the impact on various business departments including procurement, sales & Marketing, finance & Accounts, IT, Admin & HR etc. and re-structuring the same to suit the needs of the GST;
- Optimizing the transitional credits, future credits.
- Assessing the capacity building to meet the needs of the GST;
- Strategizing the right pricing to create right balance between margins and volumes;
- Ensure original entries are verified, keep evidences of tax payments etc;
- Representing through various bodies/ associations on various adverse provisions of the GST law;
- Conducting in-house training programs for learning & development of staff to ensure smooth implementation into the new regime.

Contributed by Pune Study Group

FAQs ON IT/ITES*

Q 1. Whether software is regarded as goods or services in GST?

Ans. In terms of Schedule II of the CGST Act 2017, development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software and temporary transfer or permitting the use or enjoyment of any intellectual property right are treated as services.

But, if a pre-developed or pre-designed software is supplied in any medium/storage (commonly bought off-the-shelf) or made available through the use of encryption keys, the same is treated as a supply of goods classifiable under heading 8523.

Q 2. What are the implications of recognising the development, design, programming, customisation, adaptation, upgradation, enhancement, and implementation of information technology software as a service?

Ans. The primary implication is that the place of supply rules applicable to services would apply in determining taxability of the supply of software services. The same would be applicable in situations of supply of services involving a temporary transfer or permitting the use or enjoyment of any intellectual property right. The other implication is that the supplier of software services would not be eligible for the composition scheme.

Q 3. 'A' is a dealer in Computers and Computer parts having turnover of Rs. 8 lakh in a year; does 'A' have to register under GST?

Ans. Every supplier located in a State or Union territory, whose "aggregate turnover" in a financial year exceeds twenty lakh rupees, is liable to be registered under GST. This limit of turnover for a special category State is ten lakh rupees. 'A', whose aggregate turnover is only Rs. 8 lakh in a year, is therefore not liable to registration.

Q 4. The registered person 'B' receives small portions of software code from individuals which he then integrates and supply as a package to clients. These individuals are having small turnover of Rs 5 to 10 lakh, and therefore are not registered in GST. Whether there is any liability on 'B' in respect of services provided by such individuals?

Ans. If the supplies are made by unregistered suppliers, GST is liable to be paid by the recipient, who is a registered person, under section 9(4) of the CGST Act, 2017. Therefore, in this case 'B' is liable to pay GST on services provided by these individuals. 'B' can claim credit of this tax paid by him on reverse charge.

Q 5. What is the rate of tax on IT services?

Ans. The rate of GST on IT services is 18%.

Q 6. Whether exports of software services attract GST?

Ans. Exports and supplies to SEZ units and SEZ developers are zero-rated in GST. Zero-rating effectively means that no tax

is payable on exports but the exporter/supplier is entitled to the input tax credit on inputs/input services used in relation to exports. The exporters have two options for zero rating, which are as follows:

(1) To pay integrated tax on supplies meant to be exported and get refund of tax so paid after the supply is exported.

(2) To make export supplies under a bond or letter of undertaking and claim refund of taxes suffered on inputs and input services in relation to such exports.

Q 7. How do I determine whether IT services provided by me constitute export of service?

Ans. The supply of any service is considered an export of service, where the following conditions are met:

(1) the supplier of service is located in India;

(2) the recipient of service is located outside India;

(3) the place of supply of service is outside India;

(4) the payment for such service has been received by the supplier of service in convertible foreign exchange; and

(5) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8 of the IGST Act, 2017.

Q 8. How do I determine the place of supply of IT/ITES services?

Ans. Place of supply of IT/ITES services is the location of the recipient in terms of section 12 and 13 of the IGST Act, 2017. However, if the recipient is not registered and his address is not available on the records of the supplier, the place of supply would be the location of the supplier.

Q 9. How to determine the location of the recipient?

Ans. Location of the recipient of service is defined in section 2(14) of the IGST Act. A recipient of services is treated as located outside India if his place of business where he receives services is outside India or, if he does not have a place of business, his usual place of residence is outside India.

Q 10. Would I be liable to pay GST on reverse charge even if the foreign supplier of software from whom I buy for use in my firm registered under GST was to accept the payment in Indian Rupees?

Ans. Yes, you would be liable to pay GST. A supply is treated as an import of service if the following conditions are satisfied:

(1) the supplier of service is located outside India;

(2) the recipient of service is located in India; and

(3) the place of supply of service is in India.

The place of such supply would be taken to be the location where the firm is registered (in GST) and the supplies would attract integrated tax (IGST). The factum of which currency was used to pay the consideration is immaterial.

Q 11. I am an Indian Company who makes software and sells it outside the country. I have hired a firm (not a related party)

'C' located abroad to facilitate the supply of software in Europe and the USA; would I be liable to pay GST on the payments that I make to this entity abroad?

Ans. No. In this case, 'C' is covered by the definition of 'intermediary' [section 2(13) of the IGST Act, 2017]. The place of supply of such intermediary service is location of the supplier in terms of section 13(8) of the IGST Act, 2017. As 'C' is located outside India, GST is not payable in this case.

Q 12. What factors determine the location of 'C' (in question 11) as being outside India?

Ans. In terms of section 2 (15) of the IGST Act, 2017, the location of a service provider is to be determined by applying the following steps sequentially:

(1) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(2) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(3) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(4) in absence of such places, the location of the usual place of residence of the supplier.

The location of 'C' is to be determined by applying the criterion from (2), or (3), or as the case may be, (4).

Q 13. I am an agent in India of a foreign IT/ITES provider (principal located outside India). For agency services, I bill the principal in convertible foreign exchange. Whether GST liability arises in this case?

Ans. You are an intermediary and the place of supply of the service provided by you to the principal is in India irrespective of the mode of payment. Hence, GST is payable on the services provided by you as an intermediary to the principal.

Q 14. I have more than one SEZ unit in different States; do I need to take separate registrations? Also, I have two SEZ units in one State. Can I take a single registration?

Ans. (1) Yes. Under GST, every entity shall take GST registration in each State from which it makes taxable supplies. However, a single registration can be taken for all your SEZ units within a State, whether located in one SEZ or more than one SEZ.

(2) A person having unit(s) in a Special Economic Zone as well as outside the SEZ in a State shall make a separate application for registration for SEZ unit(s) as a business vertical distinct from his other units located outside the Special Economic Zone in that State (Refer Rule 8(1) of CGST Rules, 2017).

Q 15. I have a unit in the DTA and another in the SEZ; can I take a common registration?

Ans. No. A person having unit(s) in a Special Economic Zone as well as outside the SEZ in a State, shall make a separate

application for registration for SEZ unit(s) as a business vertical distinct from his other units located outside the Special Economic Zone in that State (Refer Rule 8(1) of CGST Rules, 2017).

Q 16. If I supply a laptop bag along with the laptop to my customer, what would be the rate of tax leviable?

Ans. If the laptop bag is supplied along with the laptop in the ordinary course of business, the principal supply is that of the laptop and the bag is an ancillary. Therefore, it is a composite supply and the rate of tax would that as applicable to the laptop.

Q 17. I am obtaining online database access services from a company abroad over the net, would I have to pay tax on reverse charge?

Ans. The recipient, if registered, has to pay the applicable IGST on reverse charge basis. If the recipient is not registered, the matter is treated as an online information and database access or retrieval service (OIDAR) and the OIDAR service provider is liable to take registration and pay tax.

Q 18. When would it be construed that I have made a supply of services involving temporary transfer or permitting the use or enjoyment of any intellectual property right?

Ans. Generally, the End User Licence Agreement (EULA) is the legal contract between a software application author or publisher and the user of that application governing the usage. The agreement is renewable and/or could be amended from time to time. To find out as to whether there is an element of supply involved when software is delivered to its customer, the terms and conditions of EULA are material.

The contract for supply therefore assumes significance in this test to decide whether or not there has been 'temporary transfer or permitting the use or enjoyment of any intellectual property right'.

Q 19. What special provisions are attracted in GST with regard to associated enterprises?

Ans. An enterprise which participates, either directly or indirectly, through one or more intermediaries, in the management, or control or capital of the other enterprise is an associated enterprise. In the context of GST, associated enterprise is particularly relevant in the case of supply of services, where the supplier is located outside India. In such cases, the time of supply will be the earlier of date of entry in the books of account of the recipient of supply or the date of payment – thus, within 'associated enterprises', the levy under GST is attracted once such book entries are made even if no actual payment takes place or no invoice is issued.

Q 20. What would be the tax liability on replacement of parts (no consideration is charged from a customer) under a warranty and whether the supplier is required to reverse the input tax credit?

Ans. As parts are provided to the customer without a consideration under warranty, no GST is chargeable on such replacement. The value of supply made earlier includes

the charges to be incurred during the warranty period. Therefore, the supplier who has undertaken the warranty replacement is not required to reverse the input tax credit on the parts/components replaced.

Q 21. An Original Equipment Manufacturer (OEM) has an obligation to provide repair services to their customers in the warranty period. This activity is outsourced by OEM to 'D', who bills the OEM for the services he provides to the customer. What is the tax liability of 'D'?

Ans. 'D' is providing service to the OEM. GST is payable on the value of any supplies made by 'D' to OEM i.e. in respect of bills raised by 'D' on the OEM.

Q 22. How will the defective parts be sent to the mother warehouse/repairing centre for repair by the downstream repairing centres? What is the tax liability?

Ans. The defective parts shall be sent for repair on a delivery challan accompanied by such e-way bill as may be prescribed. GST shall be chargeable on the repair amount, including the cost of parts, charged by the repairing centre.

Q 23. What is the tax liability in a scenario where supplies are made from multiple locations (in different States) of the supplier to the recipient under a single contract?

Ans. Delivering services from various locations and integrated pricing for the contract as a whole is the norm in IT/ITES industry. Normally the contract or agreement with the recipient is entered into by one of the branches (let us say "Main Branch"). Therefore, in such cases of service delivery from multiple locations of the supplier to the recipient, the supply could be visualized as consisting of two distinct supplies. First supply- the different branches of the supplier located across different States are making the supply to the main branch which entered into a contract or an agreement with the recipient for the supply of such service. Second supply- main branch is making a supply to the customer. GST is to be levied accordingly. In such a scenario, the main branch would get input tax credit of GST paid by the other branches on supplies made by them to the main branch.

Q 24. In the scenario envisaged in previous question, the main branch is said to be entitled to ITC of the GST paid by the other branches. Thus, it is a revenue neutral situation. What are the valuation guidelines for such services?

Ans. The second proviso to rule 28 of the CGST Rules, 2017 provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods and services.

Q 25. Can payment of IGST on reverse charge basis on import of goods/services be done through book entry or ITC?

Ans. No. GST payable on reverse charge basis is to be discharged through cash only. Rule 85(4) of the CGST Rules, 2017 refers.

Q 26. Is the requirement of transferring of credit through ISD mechanism mandatory?

Ans. The ISD provision under the CGST Act, 2017 is not mandatory. It only provides the manner of distribution of ITC wherever the business entity wishes to distribute the ITC as an Input Service Distributor.

Q 27. What is the format for invoices to be issued in the case of reverse charge payment of GST?

Ans. No separate format for any type of invoicing including self-invoicing has been prescribed. The contents of the invoice have been prescribed in Rule 46 of the CGST Rules, 2017.

Q 28. I am a software provider, registered at Mumbai. I supply software to my clients in Bangalore - would I be required to take a registration in Karnataka?

Ans. No. The supplies would be treated as inter-State supplies and IGST is chargeable on the same.

Q 29. I am an exporter of services. Would I be entitled to refund after the 1st of July (appointed day)?

Ans. For exports upto 30th June, 2017 refund may be claimed under the provisions of the Chapter V of the Finance Act, 1994. Exports made on and after 1st July would be eligible for refund under the GST law.

Note: Reference to CGST Act, 2017 includes reference to SGST Act, 2017 and UTGST Act, 2017 also.

FORTH COMING EVENTS UNDER THE AEGIS OF INDIRECT TAXES COMMITTEE

Title of the Seminar: Workshop on GST

Contact Details : Jamshedpur Branch of CIRC of ICAI
Ph: 0657-2220273, 0657-2224670
Email: jamshedpur@icai.org

3rd November, 2017

Place : Jamshedpur • CPE Hours : 6 Hours

5th November, 2017

Place : Rajkot • CPE Hours : 6 Hours

Title of the Seminar: Three Days Workshop on GST

Contact Details : Trichur Branch of SIRC of ICAI
Ph: 0487-2253400/800
Email : trichur@icai.org

Title of the Seminar: Seminar on GST

Contact Details : Rajkot Branch of WIRC of ICAI
Ph: 0281 2582412/13
Email: rajkot@icai.org

22nd, 23rd & 24th November, 2017

Place : Trichur • CPE Hours : 18 Hours

ICAI'S CONTRIBUTION FOR SMOOTH IMPLEMENTATION OF GST AS PARTNER IN NATION BUILDING

1. Faculty Identification Programme on GST

The Committee organised a new series of Faculty Identification Programme (FIP) on GST at Hyderabad, Delhi/NCR, Bangalore, Mumbai and Kolkata in the month of September.

The results of the above FIP was declared on 9th Oct, 2017 wherein 65 members have been selected. These selected members have been invited for Train the Trainer programme from 7th to 10th November, 2017.

2. Representation to allow CA. Inter to register as GST Practitioner

A representation has been submitted to the Government on 13th October, 2017 for allowing CA. Inter to register as GST Practitioner. It may be noted that even a graduate is allowed to register as GST Practitioner.

3. Training Programme for Officer of Air force

The Committee has organised three (3) training programme for Officers of Airforce as follows:

Sl. No	Date	City
1.	12th & 13th Oct, 2017	Agra
2.	23rd & 24th Oct, 2017	Thane
3.	26th & 27th Oct, 2017	Bangalore

4. GST Mitra

With a view to support/ advise the SME, the Committee has invited interest from members. More than 800 members have shown their interest till now for such support to the SME, which would be screened and modalities for such support would be worked out shortly.

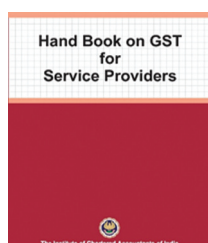
5. Live Webcast on "Return filing and related issues under GST"

The Committee has organized two (2) LIVE Webcasts on GST, the details of which is as follows:

Sl. No	Date	Topics	Faculty
1.	11th Sept, 2017	Return filing and related issues under GST	CA. Venu Gopal and CA. Lakshmi G K
2.	23rd Oct, 2017	Unresolved issues in GSTR 3B, GSTR 1 & 2 and related challenges under GST	CA. Venu Gopal

PUBLICATIONS

With a view to facilitate members to have thorough understanding of GST, the Indirect Taxes Committee of ICAI has come out with following two publications :-

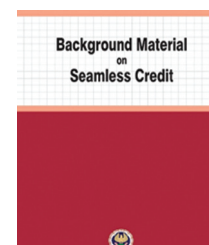


Handbook on GST for Service Providers- October, 2017 Edition

"Handbook on GST for Service Providers" contains in-depth knowledge of provisions pertaining to services i.e Levy and exemption, Input service distributor, Registration, Time and place of supply, Valuation, Input tax credit, and Job work etc. in a very simple and easy to comprehend language.

Background Material on Seamless Credit- October, 2017 Edition

"Background Material on Seamless Credit" contains the detailed discussion on Input Tax Credit mechanism (e.g. meaning, purpose, effect, conditions, negative list, comparison with earlier law, etc). Therefore, it aims to apprise nitty-gritties of credit available under GST.



Ordering Information

The Publication can be purchased directly from the sales counter at the ICAI's Regional Offices / Branches or at the Head Office. Member may also download from Indirect Taxes Committee Website: <http://idtc.icaai.org/publications.php>. To order by post, requisition may be sent to the Postal Sales Department of the ICAI at postalsales@icaai.in or can be order online at <https://icaionlinestore.org/indirect-taxes-committee>



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Accountancy Profession: Convergence and Sustainability in Digital Era

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In the challenging times, Chartered Accountancy profession today is an integral facet of society. In the growth and development of a country, the accounting profession, perceptibly is playing a dynamic role in ensuring stability and sustainability of country's Economy and Corporates through financial discipline, control and strong financial resilience, thus adding elements of credence and trust to financial reporting.

The ICAI International Conference on the theme 'Accountancy Profession: Convergence and Sustainability in Digital Era' will be a congregation of Intellectuals in areas of Governance, latest Accounting and Auditing Standards, Integrated Reporting, Transparent Regulatory Regime, New Frontiers in Direct Taxes like GAAR and BEPS, GST Implementation impact, Capital and Financial Market developments and the impact of Digitisation on the profession.

The ICAI International Conference at Mumbai, the financial capital of India, is going to be an apt platform for ideas exchange and usher interactive dialogue amongst the global and local accounting fraternity and other stakeholders. The dawn of a digital society juxtaposed with traditional avatar of an accountant role is leading to re-skilling need for professional accountants and Institute's endeavour is to provide continuous education to the emerging context. The international conference is likely to see participation of more than 1,500 professionals and business leaders and is recommended to be attended by all those who wish to remain updated with the emerging dynamics and excel.

Fee Details

CATEGORY	FEES	TIME LINE FOR REGISTRANTS
ACA/FCA/Non Member/Foreign Participants	₹ 4,000/- +18%GST = 4,720/-	Till 20 th November, 2017
ACA/FCA/Non Member/Foreign Participants	₹ 4,500/- +18%GST = 5,310/-	Post 20 th November, 2017

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The Sponsorship at the ICAI International Conference will give the Sponsors the dual benefit of having the same deliverables at the ICAI Awards 2017 and ICAI - CPBAI Corporate Forum on 19th and 20th January 2018 at Mumbai, in addition to the ones being provided at the instant International Conference.

For Sponsorship, please contact. Dr. Surinder Pal, Joint Secretary, ICAI, Email: spal@icai.in, Mobile: +91 93507 99931

For further details about the ICAI International Conference, including registration, hotel options, sponsorship options, etc., please log on to <http://ic.icai.org/>.

International Conference Secretariat: Ms. Srabani Kapoor, Dy. Director,
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