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ICAI-GST

NEWSLETTER

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



TWO DAYS PROGRAMME ON

GST

ORGANISED BY

THE INSTITUTE OF
CHARTERED ACCOUNTANTS OF INDIA

AT
NEW DELHI

ICAI has organised more than 2250 programmes on GST which have been attended by approx. 1.75 Lacs members since Jan, 2017.

President's Communication



My Esteemed professional colleagues,

GST roll-out finally saw the light of the day on 1st July 2017 paving the way for realization of the goal of *One Nation - One Tax - One Market*. GST is expected to benefit one and all by reducing the cost of goods & services, giving a boost to the economy and making the products and services globally competitive by giving a major boost to 'Make in India' initiative. GST promotes the concept of common market with common tax rates & procedures and removal of economic barriers thus improving ease of doing business.

For smooth implementation of GST, the Government has recently issued tariff as well as non-tariff notifications under Central Tax, Integrated Tax, Union Territory Tax and Compensation Cess. Further, in order to educate tax payers on the concept of Registration & Migration Transition & Invoice Making, Composition and Record Keeping, Department of Revenue, Government of India and the CBEC organized GST-Ki -Master Class for six days in Hindi as well as in English.

As a flag bearer of the Nation building initiatives, ICAI has always been at the service of the Nation with all its resources, expertise and efforts to make the GST transition a great success, particularly in our role as "Partner in GST Knowledge Dissemination". In addition to the initiatives like setting up of *GST Sahayata Desks* across the country for the benefit of traders, industries and public at large, ICAI has also released various publications on GST, launched *Certificate Course on*

GST (virtual also) to impart expert knowledge on the subject etc. To make the knowledge dissemination process smoother, ICAI has recently released topic wise "*Standardized PPT on GST*" wherein all the GST topics have been explained to the users through PowerPoint Presentations with help of simple diagrams, examples etc.

To update further and provide anytime anywhere learning, *e-learning on GST* has been launched wherein members as well as non-members may subscribe to the course online and garner the requisite knowledge relating to a topic or all the topics in a package as per their convenience. The details of the same is available at the website www.idtc.icai.org which also hold good for offline webcasts, regular GST updates, articles, information on upcoming courses, programmes/ seminars, e-publications on GST, etc., for all its registered users. You may also register at the website to get regular updates on GST under tab of GST update.

Lets' continue to contribute to the success of GST implementation further.

With Best Wishes,

CA. Nilesesh S. Vikamsey
President, ICAI

25 July 2017



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GST UPDATES

Check Posts Get Abolished Across 22 States in India

With the roll-out of the GST, 22 States in India have abolished their check posts. The details are as: -

Andhra Pradesh	Arunachal Pradesh	Bihar
Gujarat	Karnataka	Kerala
Madhya Pradesh	Maharashtra	Sikkim
Tamil Nadu	West Bengal	Chhattisgarh
Delhi	Goa	Haryana
Jharkhand	Odisha	Puducherry
Rajasthan	Telangana	Uttar Pradesh
Uttarakhand		

[Source: pib.nic.in; Release ID 167106]

CGST Exemption limit for Reverse Charge transactions notified

Section 9(4) of the CGST Act 2017 provides that central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Thus in order to provide marginal relief to Registered Taxable person, Central Government vide Notification No. 08/2017-Central Tax (Rate), dt. 28-06-2017 has w.e.f 1st July 2017 exempted supplies of goods or service or both received by a registered person from any or all such unregistered supplier(s) if the aggregate value of such supplies does not exceed Rs. 5000 in a day.

CGST & IGST Rate Schedule of Goods notified with effect from 01.07.2017

Central Government vide Notification No. 01/2017-Central Tax (Rate), dt. 28-06-2017 and Notification No. 01/2017-Integrated Tax (Rate), dt. 28-06-2017 has w.e.f 1st July 2017 notified CGST and IGST rates for intra-State and intra State supplies of goods categorized into six schedules as follows:

Schedule	Rate of CGST	Rate of IGST
I	2.5%	5%
II	6%	12%
III	9%	18%
IV	14%	28%
V	1.5%	3%
VI	0.125%	0.25%

Further, the following has also been notified vide different notifications:

S. No.	Particulars	Notification No.
1	Schedule of goods whose intra-state taxable supplies are exempt from the whole of the central tax leviable thereon under section 9/5 of the CGST/IGST Act, 2017	N N. 02/2017-Central Tax & N N. 02/2017-Integrated Tax (Rate), dt. 28-06-2017
2	Goods in respect of which no refund of unutilized 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)	N N. 05/2017-Central Tax & 05/2017-Integrated Tax (Rate), dt. 28-06-2017
3	Conditional exemption - Schedule of goods whose inter-state taxable supplies are exempt from so much of the integrated tax as in excess of 5% leviable thereon under section 5 of the Integrated Good and Services Tax Act, 2017 subject to conditions specified.	N No. 03/2017-Integrated Tax (Rate), dt. 28-06-2017

Exemption to dealers operating under Margin Scheme

Central Government vide Notification No. 10/2017-Central Tax (Rate), dt. 28-06-2017 has exempted intra-State supplies of second hand goods received by a registered person (who deals in buying and selling of second hand goods and pays the central tax on the value of outward supply of such secondhand goods) from an unregistered supplier from the whole of the central tax leviable thereon under reverse charge mechanism.

In other words, the dealers operating under Margin Scheme making purchases from unregistered dealers are exempted from payment of tax under reverse charge.

IGST exemption to SEZs on import of Services by a unit/developer in an SEZ

Central Government vide Notification No. 18/2017-Integrated Tax (Rate), dt. 05-07-2017 has exempted services imported by a unit or a developer in the Special Economic Zone for authorised operations, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Service Tax Act, 2017 as well as section 3(7) of the Customs Tariff Act, 1975.

CGST & IGST Rate Schedule of Services notified with effect from 01.07.2017

Central Government vide N No. 11/2017-Central Tax (Rate), dt. 28-06-2017 and N No. 08/2017-Integrated Tax (Rate), dt. 28-

06-2017 has w.e.f 1st July 2017 notified CGST and IGST rates for intra-State supplies of services subject to specified conditions.

Further, the following has also been notified vide different notifications subject to specified conditions:

S. No.	Particulars	Notification No.
1.	Schedule of services whose intra-state taxable supplies are exempt from the whole of the central tax leviable thereon under section 9 of the Central Good and Services Tax Act, 2017	N N. 12/2017-Central Tax (Rate), dt. 28-06-2017
2.	No refund of unutilized input tax credit shall be allowed u/s 54(3)/20(xiii) of the CGST/IGST Act, in respect of services Relating to construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.	N N. 15/2017-Central Tax (Rate), dt. 28-06-2017
3.	Schedule of services whose inter-state taxable supplies are exempt from so much of the Integrated Tax leviable thereon under section 5(1) of the said Act, as is in excess of the specified rate subject to specified conditions.	N N. 09/2017-Integrated Tax (Rate), dt. 28-06-2017

Categories of services on which tax will be payable by Electronic Commerce Operator

Central Government vide Notification No. 17/2017-Central Tax (Rate), dt. 28-06-2017 and Notification No. 14/2017-Integrated Tax (Rate), dt. 28-06-2017 has notified the following category of services for which CGST/IGST needs to be paid by the electronic commerce operator –

- services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motorcycle;
- services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said CGST Act.

Jammu & Kashmir GST Act, 2017 passed

The State of Jammu and Kashmir had taken the first step towards adopting the GST regime with the President of India giving assent to the Constitution (Application to Jammu and Kashmir) Amendment Order, 2017 on 6th July 2017. Following this, the Jammu and Kashmir Goods and Services Tax Act, 2017 was passed by the State Legislature on 7th July 2017. Thus, State of J&K notified the effective date as 8th July 2017.

Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance

A person making inter-State supply of goods or services or both is compulsorily required to be registered. Further as per Section 25(4) of the CGST Act, 2017 a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

In this regard, Central Government vide Circular No. 1/1/2017-IGST dt. 07-07-2017 has clarified that inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of CGST Act, 2017, not involving further supply of such conveyance, including:

Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers and Aircrafts

(a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST will be leviable on repairs and maintenance done for such conveyance.

Goods or services on which tax will be payable under reverse charge mechanism under CGST Act and IGST Act

Central Government vide Notification No. 04/2017-Central Tax (Rate), dt. 28-06-2017 and Notification No. 04/2017-Integrated Tax (Rate), dt. 28-06-2017 has w.e.f 1st July 2017 provided that CGST/IGST on needs to be paid on the reverse charge basis completely (100%) by the recipient of such goods. The detailed list of such goods is as follows:

S. No.	Description of supply of goods	Supplier of goods	Recipient of supply
i.	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
ii.	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
iii.	Tobacco leaves	Agriculturist	Any registered person
iv.	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
v.	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent

Central Government vide Notification No. 13/2017-Central Tax (Rate), dt. 28-06-2017 and Notification No. 10/2017-Integrated Tax(Rate), dt. 28-06-2017 has w.e.f 1st July 2017 provided the category of services on which CGST/IGST needs to be paid on the reverse charge basis completely (100%) by the recipient of such services. The detailed list of such services is as follows:

S. No.	Supplier of service	Category of Supply of Services	Recipient of Service
i.	Goods Transport Agency (GTA)	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948 or (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.	(a) any factory registered under or governed by the Factories Act, 1948 or (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person located in the taxable territory
ii.	An individual advocate including a senior advocate or firm of advocates	Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.	Any business entity located in the taxable territory.
iii.	An arbitral tribunal	Services supplied by an arbitral tribunal to a business entity	Any business entity located in the taxable territory
iv.	Any person	Services provided by way of sponsorship to any body corporate or partnership firm	Any body corporate or partnership firm located in the taxable territory
v.	Central Government, State Government, Union territory or local authority	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers	Any business entity located in the taxable territory
vi.	A director of a company or a body corporate	Services supplied by a director of a company or a body corporate to the said company or the body corporate	The company or a body corporate located in the taxable territory
vii.	An insurance agent	Services supplied by an insurance agent to any person carrying on insurance business	Any person carrying on insurance business, located in the taxable territory
viii.	A recovery agent	Services supplied by a recovery agent to a banking company or a financial institution or a nonbanking financial company	A banking company or a financial institution or a non-banking financial company, located in the taxable territory
ix.	Author or music composer, photographer, artist, or the like	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like	Publisher, music company, producer or the like, located in the taxable territory

Further, two more category of services have been notified on which IGST needs to be paid on the reverse charge basis completely (100%) by the recipient of such services: -

S. No.	Supplier of service	Category of Supply of Services	Recipient of Service
i.	Any person located in a non-taxable territory	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in the taxable territory other than non-taxable online recipient.
ii.	A person located in a non-taxable territory	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962, located in the taxable territory.

Issues related to furnishing of Bond/ Letter of Undertaking for Exports

Rule 96A of the CGST Rules, 2017, provides that any registered person availing the option to supply goods or services for export without payment of integrated tax needs to furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 on the common portal. Further, Circular No. 26/2017-Customs dated 1st July 2017 has clarified that the procedure as prescribed under rule 96A of the said rules requires to be followed for the export of goods from 1st July 2017. However, exporters are facing difficulties for supplying the goods or services for export without payment of integrated tax. A large number of such Bonds/Letter of Undertakings are required to be filed by the registered exporters who are located at a distance from the office of the Jurisdictional Commissioner, furnishing of such bonds/undertakings causes hardship to the exporters.

In order to address to the aforesaid issues, Central Government vide Circular No. 2/2/2017-GST dt. 04-07-2017 has w.e.f 1st July 2017 clarified that the acceptance of the Bond/Letter of Undertaking required to be furnished by the exporter under rule 96A of the said rules will be done by the jurisdictional Deputy/Assistant Commissioner. Further, in order to ensure uniformity, the Bond/Letter of Undertaking may be furnished manually to the jurisdictional Deputy/Assistant Commissioner in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal.

In addition to above Central Government vide Circular No. 4/4/2017-GST dt. 07-07-2017 has further clarified the following:

- The procedure for submission and acceptance of bond has already been prescribed vide Circular No. 2/2/2017-GST dated 4th July 2017. The bond will be furnished on non-judicial stamp paper of the value as applicable in the State in which bond is being furnished.
- the exporters will furnish a running bond, in case he is

required to furnish a bond, in FORM GST RFD -11 as the consignment wise bond would be a significant compliance burden on the exporters. The bond would cover the amount of tax involved in the export based on estimated tax liability as assessed by the exporter himself. The exporter will ensure that the outstanding tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the tax liability in yet to be completed exports, the exporter will furnish a fresh bond to cover such liability.

- The jurisdictional Commissioner may decide about the amount of bank guarantee depending upon the track record of the exporter. If Commissioner is satisfied with the track record of an exporter then furnishing of bond without bank guarantee would suffice. In any case the bank guarantee should normally not exceed 15% of the bond amount.
- LUT will be valid for 12 months. If the exporter fails to comply with the conditions of the LUT he may be asked to furnish a bond. Exports may be allowed under existing LUTs/Bonds till 31st July 2017. Exporters will submit the LUTs/bond in the revised format latest by 31st July 2017.
- the Bond/LUT will be accepted by the jurisdictional Deputy/ Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, if in a State, the Commissioner of State Tax so directs, by general instruction, to exporter, the Bond/LUT in all cases be accepted by Central tax officer till such time the said administrative mechanism is implemented.
- Further Circular No. 26/2017 – Customs dated 1st July 2017 has clarified that the existing practice of sealing the container with a bottle seal under Central Excise supervision or otherwise would continue till 01st September 2017. Such sealing will be done under the supervision of the officer having physical jurisdiction and a copy of the sealing report would be forwarded to the concerned Deputy/Assistant Commissioner. These practices would also apply to exports made on or after 1st July 2017.

Conditions & Safeguards for furnishing Letter of Undertaking in place of a bond for export without payment of integrated tax for Exports

Central Government vide Notification No. 16/2017-Central Tax, dt. 07-07-2017 has notified conditions and safeguards for the registered person who intends to supply goods or services for export without payment of integrated tax, for furnishing a Letter of Undertaking in place of a Bond.

Letter of Undertaking in place of a bond may be submitted for following registered persons:

- a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015- 2020. Status Holders are business leaders who have excelled in international trade and have successfully contributed to country's foreign trade. All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for

recognition as a status holder. For granting status, export performance is necessary in at least two out of three years.

or

- b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year

and he has not been prosecuted for any offence under the CGST Act, 2017 or under any of the existing laws in case where the amount of tax evaded exceeds Rs. 2,50,000.

The Letter of Undertaking needs to be furnished in duplicate for a financial year in the annexure to FORM GST RFD – 11 referred to in rule 96A (1) of the GST Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorized by such working partner or Board of Directors of such company or proprietor on the letter head of the registered person.

“GST Rates Finder” App launched

A new app i.e. “GST Rates Finder” was launched by government on 7th July 2017 to help users to find rates of GST for various goods and services. The user can determine the GST rate for a good or a service by entering the name or Chapter heading of the commodity or service. The user can scroll down the list of descriptions and when any specific item on the list is clicked, the display window will pop-up, containing details such as GST rate, description of goods or services and the Chapter heading of the Harmonized System of Nomenclature (HSN).

CBEC has also provided a GST rate finder on its portal www.cbec-gst.gov.in to help the taxpayers know the applicable GST rate on their supplies of goods and services. These initiatives are aimed to serve as a ready reckoner on GST rates. This will empower not only the taxpayers, but every citizen of the nation, to ascertain the correct GST rate on goods and services

[Source: pib.nic.in; Release ID 167376]

Clarification on Migration, New Registration, Opting for Composition Scheme and Issue of Bills of Supply

The Rules related to Registration and Composition Scheme were brought into effect from 22nd June 2017 with a view to start the process of issue of registration certificate, called Goods and Services Tax Identification Number (GSTIN), to taxpayers who have already been issued provisional ID for registration (PID) as well as to the new taxpayers.

Any person who has been granted PID and who opts for composition scheme, should submit an intimation of option in a prescribed form on GSTIN on or before 21st July 2017.

The Central Government vide Order No. 01/2017-GST dated 21st July 2017 has extended the time limit for filing intimation for Composition levy (filing of intimation FORM GST CMP-01) up to 16th August 2017.

Any persons who has PID may submit the required documents on GSTIN for getting the certificate of registration. It is clarified that a period of 3 months is allowed to complete this procedure i.e. the formalities can be completed on or before 22nd

September 2017. In the interim, they can issue tax invoice using the PID already allotted to them.

A person seeking fresh registration can apply for registration within 30 days from the date on which he becomes liable for registration. They can also opt for composition scheme at the time of filing of registration form.

The applicant for grant of new registration can issue a bill of supply for supplying goods or services during the period from the date of liability to obtain registration till date of issuance of the registration certificate, if he has applied for registration within 30 days from the date he has become liable for registration. On grant of certificate of registration, he can issue revised tax invoices for the supplies made during this period.

[Source: pib.nic.in; Release ID 167244 & 168858]

Gifts up to a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST - clarification

Gifts up to a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST. However, gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

It is pertinent to note that the services by an employee to the employer during or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered between the employer and the employee, will not be subjected to GST. Further, the Input Tax Credit (ITC) Scheme under GST does not allow ITC of membership of a club, health and fitness Centre [section 17 (5) (b) (ii)]. Therefore, if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).

[Source: pib.nic.in; Release ID 167285]

Tax in reverse charge on gold ornaments - clarification

Section 9(4) of the CGST Act, 2017 mandates that tax on supply of taxable goods by an unregistered supplier to a registered person will be paid by the registered person under reverse charge mechanism. This provision, however, must be read in conjunction with section 2(105) read with section 7 of the CGST Act, 2017. Section 2 (105) defines supplier as a person supplying the goods or services. Section 7 provides that a supply is a transaction for a consideration by a person in the course or furtherance of business.

Even though the sale of old gold by an individual is for a consideration, it cannot be said to be in the course or furtherance of his business (as selling old gold jewellery is not the business of the said individual), and hence does not qualify

to be a supply per se. Accordingly, the sale of old jewellery by an individual to a jeweller will not attract the provisions of Section 9(4) and jeweller will not be liable to pay tax under reverse charge mechanism on such purchases. However, if an unregistered supplier (who is dealing in such trade) of gold ornaments sells it to registered supplier, the tax under RCM will apply.

[Source: pib.nic.in; Release ID 167405]

No GST on Annual subscription/fees charged as lodging/boarding charges by educational institutions from its students for hostel accommodation

Services provided by an educational institution to students, faculty and staff are fully exempt. Educational institution has been defined as an institution imparting

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- (iii) education as a part of an approved vocational education course.

Thus, services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognized by law, are fully exempt from GST. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall not attract GST.

[Source: pib.nic.in; Release ID 167387]

Impact of GST on Housing Society Resident Welfare Association (RWA)

Supply of service by RWA (unincorporated body or a registered non-profit entity) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs. 5000 per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.

Further, if the aggregate turnover of such RWA is upto Rs.20 Lakh in a financial year, then such supplies would be exempted from GST even if charges per member are more than Rs. 5000.

RWA shall be required to pay GST on monthly subscription/contribution charged from its members if such subscription is more than Rs. 5000 per member and the annual turnover of RWA by way of supplying of services and goods is also Rs. 20 lakhs or more. Under GST, the tax burden on RWAs will be lower for the reason that they would now be entitled to ITC in respect of taxes paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services. ITC of Central Excise and VAT paid on goods and capital goods was not available in the pre-GST period and these were a cost to the RWA.

Thus, there is no change made to services provided by the Housing Society (RWA) to its members in the GST era.

[Source: pib.nic.in; Release ID 167386]

Applicability of the Margin Scheme under GST for dealers in second hand goods in general and for dealers in old and used empty bottles in particular

Rule 32(5) of the CGST Rules, 2017 provides that where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored. This is known as the margin scheme.

Further, notification No.10/2017-Central Tax (Rate), dated 28.06.2017 exempts Central Tax leviable on intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods [who pays the central tax on the value of outward supply of such second-hand goods as determined under sub-rule (5)] from any supplier, who is not registered. This has been done to avoid double taxation on the outward supplies made by such registered person, since such person operating under the Margin Scheme cannot avail input tax credit on the purchase of second hand goods.

Thus, Margin Scheme can be availed of by any registered person dealing in buying and selling of second hand goods [including old and used empty bottles] and who satisfies the conditions as laid down in Rule 32(5) of the CGST Rules, 2017.

[Source: pib.nic.in; Release ID 167447]

Position regarding applicability of GST on Legal Services provided by individual Advocates including Senior Advocates and a Firm of Advocates

There are points being raised about the applicability of GST on legal services provided by advocates – whether it is in forward charge or reverse charge. It may be mentioned that there is no change made in taxation of legal services in the GST era.

In this context, it is further clarified that legal service has been defined to mean any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

It is further clarified that Notification No. 13/2017-Central Tax (Rate) dated 28.6.2017 specifies, inter alia, the following service under reverse charge mechanism, -

“Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.”

The words “by way of legal services” are preceded and succeeded by comma. Therefore, the said words apply to an individual advocate including a senior advocate and a firm of advocates.

Legal services provided by either of them are liable for payment of GST under reverse charge by the business entity. The words “by way of representational services before any court, tribunal or authority....” appear in conjunction with senior advocate without a comma and merely describe the nature and mode of representational services provided by a senior advocate to a business entity. It, therefore, follows that legal services, which includes representational services, provided by advocates are under reverse charge.

[Source: pib.nic.in; Release ID 167455]

Password for GST Provisional ID not received

The issue faced here relates to Provisional ID being received by an assessee but requisite password for future use was not received. The issue was forwarded to CBEC Mitra Helpdesk wherein it was clarified that in case the password to the Provisional ID has not been issued it might be a case where Registration Certificate had been cancelled. Provisional ID which can't be used to migrate as they are showing 'RC cancelled', are being reactivated. Please use these to enroll on GST portal beginning 25 June. Once enrolled, you get three months to submit your registration form on the GST Common Portal at <https://reg.gst.gov.in/registration>.

The details of your existing Central Excise (CE)/Service Tax (ST) registration need to be provided while filling up the form, in order to be eligible for transitional credit under Section 140 of CGST Act, 2017 (Rule 117 of CGST Rules, 2017 needs to be referred). In case of any further issues in submitting the

registration form, the GST Helpdesk may be contacted at helpdesk@gst.gov.in or 0120-4888-999.

For any help on how to issue invoices till the GSTIN is received, please visit <https://cbec-gst.gov.in/advt-faq-relating-gst-migration-registration.html>.

Toll-free number 1800-1200-232 may be dialed for further clarifications.

No Tax deduction at Source (TDS) under Income Tax on 'GST on services' component

The Central Board of Direct Taxes (CBDT) vide Circular No. 23/2017 dated 19th July 2017 clarified that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax will be deducted on the amount paid or payable without including such 'GST on services' component. In other words, tax will not be deducted on such 'GST on services' component.

Further, GST for these purposes will include IGST, CGST, SGST and UTGST.

It has further been clarified that any reference to 'service tax' in an existing agreement or contract which was entered prior to 01/07/2017 will be treated as 'GST on services' with respect to the period from 01/07/2017 onward till the expiry of such agreement or contract.

[CBDT Circular No. 23/2017 dated 19th July 2017]

E- Learning on GST through recorded video lectures For anytime, anywhere learning!

The Indirect Taxes Committee of ICAI has come up with E-learning on GST through recorded video sessions covering almost the entire topics of GST, which are available on its website viz. www.idtc.icai.org to provide the users a well-set platform for learning and gaining knowledge on GST at anytime from anywhere.

Main features of the E-learning on GST are:

- ❖ Video recordings by renowned faculties covering 18 topics of GST
- ❖ For each topic, recorded time of Video lecture is approx. 3 hours. Total time of entire E-learning on GST is approx. 58 hrs.
- ❖ Available at price:

S. No.	Individual topic / Complete course	For Members	For Non-Members
1	Individual topic	Rs. 100+ applicable taxes	Rs. 200+ applicable taxes
2	Complete course	Rs. 1000+ applicable taxes	Rs. 2000+ applicable taxes

- ❖ Interested person may visit at the link <http://idtc.icai.org/elearning-gst-subscribe.html> on the website of the Indirect Taxes Committee.

For any clarifications, you may refer “FAQs on E-Learning on GST” available at <http://idtc-icai.s3.amazonaws.com/download/FAQs-on-E-Learning-GST.pdf> or Secretariat, Indirect Taxes Committee may be contacted at gst@icai.in or 0120-3045954.

LIKELY IMPACT OF GST ON AUTOMOBILE INDUSTRY IN INDIA

India is on the verge of a giant leap from the current indirect tax regime to the new indirect tax regime, namely Goods and Services Tax ('GST'), scheduled to come into effect from 1st July, 2017. GST is a new chapter in Indian economy, possibly the biggest or one of the biggest and most significant tax reforms India has witnessed ever since the independence. The entire structure of taxation on goods as well as services is being realigned into a single destination based value added tax as against the current origin based set up of multiple taxes with limited credit for the tax suffered on earlier transactions in the chain. Therefore, GST is going to impact everyone in the economy - each sector across the business world - manufacturing, trading, construction, exports, banking & finance, insurance, professionals, all sorts of services etc., the governments at all levels, even the judiciary and hence ultimately the Common Man who pays for the goods and services. The impact would depend on effect of changes on one's business as also on one's ability to analyse the impact of changes not only on own business but also that in procurement and distribution chain to optimize the benefit under the new regime. The changes may have positive or negative implications for a given business entity or segment of an industry or given industry as a whole. Automobile industry is one of the largest in the world, growing and dynamic sectors in the Indian economy, having complex operations from tax angle and subjected to fairly high rates of taxation under the current provisions and would obviously have wide implications, both positive and negative, on change over to GST. The annual production of industry was 23.96 million vehicles in FY (fiscal year) 2015-16, following a growth of 2.57 per cent over the last year. The automobile industry accounts for 7.1 per cent of the country's gross domestic product (GDP). The Two Wheelers segment, with 81 per cent market share, is the leader of the Indian Automobile market, owing to a growing middle class and a young population. Moreover, the growing interest of companies in exploring the rural markets further aided the growth of the sector. The overall Passenger Vehicle (PV) segment has 13 per cent market share. India is also a prominent auto exporter and has strong export growth expectations for the near future. In FY 2014-15, automobile exports grew by 15 per cent over the last year. In addition, several initiatives by the Government of India and the major automobile players in the Indian market are expected to make India a leader in the Two Wheeler (2W) and Four Wheeler (4W) market in the world by 2020

The automobile industry broadly comprises of the following:

- Automobile Manufacturers (OEMs), who manufacture Motor Vehicles – broadly divided into four segments viz. passenger cars including utility vehicles, commercial vehicles – for goods & passenger application, two wheelers and three wheelers, each having different business processes, tax structure and therefore issues related to taxation.

- Auto Ancillaries supplying components to the OEMs
- Dealers of OEMs

GST would impact each of the above constituents of the auto industry. This article intends to highlight the key GST impact areas mainly from the OEM perspective. As stated, OEM constituent has segments and each segment – notably passenger cars, has further sub-segments, each having different features and hence different tax implications. However, in this article we have dealt with implications from the point of view of OEM as single sector and wherever the implication is significant and related to one of the segments / sub-segments, made reference to the same. Moreover, since we are trying to cover all the implications or impact areas for the sector in this single article, number of them have been summarized though quite a few of these issues can be subject matter of detailed discussion. Also, we have concentrated mainly on Motor Vehicles and not so much on spare parts and service activities of OEMs.

1. Quantum of tax burden on the end customer:

The impact areas are as follows:

- Currently, the Motor Vehicles are subject to multiple indirect taxes viz. Central Excise Duty, Automobile Cess, Infrastructure Cess, National Calamity Contingent Duty (NCCD) as applicable depending on tariff classification, Central Sales Tax (CST) on inter-state sales, and State level taxes notably Value Added Tax (VAT) and other taxes like Entry Tax, Local Body Tax, Octroi etc. varying from State to State, which all get passed on to the end customer. There is tax cascading also in as much as CST & VAT are payable on the value inclusive of Central Excise duty & other central levies and VAT is payable on CST. CST impact of 2% & cascading effect thereon is particularly relevant for cars & two wheelers which are sold directly from OEM factory to dealers, most of which are inter-state sales. At present, depending upon the type of vehicle, the indirect tax burden in the hands of ultimate customer could generally vary somewhere between 28% and 56% of the price. Under GST, all these duties, taxes and cesses would be subsumed and cascading effect avoided. The expected combined rate of tax under GST for Motor Vehicles is 28% or 28% plus cess at the rate ranging from 1% to 15% depending on type of vehicle except the electric cars which will attract 12% tax.
- The outbound supply chain is restricted between manufacturer and dealer and there are no other intermediaries, except for sales of spare parts, which means limited amount of margins in the distribution chain as compared to number of other trades with longer chain in distribution. Under GST, price to end customer would be subjected to full tax incidence as against

Central Excise Duty currently applicable only on manufacturer's price and not the trading margins. Though moderately, this would broaden base for tax levy in GST and hence would have adverse cost implication for end customer.

- c) The OEM factories typically supplying given model of vehicle to dealers spread across the country, either directly or through depots, involves good amount of expenditure on outbound logistics. Under the current regime, no Central Excise Duty and CST are liable on transportation cost for vehicles directly sold from OEM factory to dealers whereas under GST such transportation cost would suffer tax at the same rate as applicable for the Motor Vehicle. This would have adverse cost implication for cars and two wheelers where the distribution model of direct sales to dealers is a common practice.

- d) A chart showing expected combined rate of tax under GST including the Cess where applicable vis - a - vis rate of tax burden currently on end customer for different types of Motor Vehicles is appended. As stated in (b) and (c) above, in GST the rate would apply on a wider base value. If we see the rates under GST, the tax rate on high end passenger cars viz. large cars and sports utility / utility vehicles with specified higher features (both attract very high rate in the current regime), would significantly reduce. However, these high end cars are sold in relatively much less numbers. In case of small cars which account for bulk of domestic car sales as also for the commercial vehicles and two/ three wheelers, the change is marginal when we also consider the increase in base value for tax computation.

Post GST Change In percentage of tax applicable on various Motor Vehicles

Sr. No.	Type of Vehicle	HSN Code	Pre GST duties & taxes			Post GST (CGST + SGST incl. cesses)	Post GST Likely Difference in tax
			Central Excise incl. Cesses	VAT & CST* (Approx.)	Total		
			%	%	%	%	%
1	Passenger Cars including UVs:	8703					
(a)	Small Car - Petrol length < 4000mm engine cc < 1200		14.63	18.07	32.70	29	-3.70
(b)	Small Car - Diesel length < 4000mm engine cc < 1500		16.13	18.31	34.44	31	-3.44
(c)	Mid - segment car length > 4000mm engine cc < 1500		29.13	20.37	49.50	43	-6.50
(d)	Large Car length > 4000mm engine cc > 1500		32.13	20.83	52.96	43	-9.96
(e)	Sports Utility Vehicle/ Utility vehicle length > 4000mm engine cc > 1500 ground clearance > 170 mm		35.13	21.30	56.43	43	-13.43
(f)	Hybrid Car - Mid segment & large engine cc < 1500 & engine cc > 1500		13.63	17.91	31.54	43	11.46
(g)	Electric Car ***		7.13	8.70	15.83	12	-3.83
2	Fully Built Commercial Vehicles						
(a)	(Goods truck, bus > 13 persons) Diesel	8704 & 8702	12.63	15.20	27.83	28	0.17
(b)	Special Purpose vehicles	8705	12.63	15.20	27.83	28	0.17
3	Chassis - diesel - for Goods truck -for bus > 13 persons	8706	13.13	15.27	28.40	28	-0.40
			14.13	15.40	29.53	28	-1.53
4	Two Wheelers - Petrol Motor cycles - engine capacity > 350 cc Other Motor cycles, scooters, mopeds	8711					
			13.63	17.91	31.54	31	-0.54
			13.63	17.91	31.54	28	-3.54
5	Three wheelers (other than electric)	8703 & 8704	12.63	17.75	30.38	28	-2.38

* Varies state to state & depends on distribution model. Cars and 2/3 wheelers are generally sold from OEM factory to dealers directly and then by the dealers locally. Sales from OEM factory to dealers are mostly inter-state. Hence, effect of CST @2% & VAT @13.5% both considered, including cascading effect. Commercial vehicles generally sold from depots. Effect of VAT @13.5% only considered on value

inclusive of Excise Duty. Some other local taxes may also apply. Hence, overall % indicated is approximate %.

**** Dealer margin is not subjected to Central Excise Duty and CST.** Similarly, in case of cars and 2/3 wheelers generally sold directly from OEM factory to dealer, the transportation charges are not subjected to Central Excise Duty. These two elements would be subjected to GST which factor needs to be considered while making comparison.

***** Some exemptions under VAT in some of the states.** VAT rate considered in working at 6%. Actual impact will depend on VAT rate in respective State.

- e) The concessional rate for Hybrid cars is withdrawn in GST and they would be subjected to tax @43%, a major set-back to the upcoming segment. As for electric cars, the impact would depend on different VAT rates currently applicable in respective States.
- f) Post sale services like insurance, AMC, servicing, repairs etc. may cost more to the customers with increase in rate of tax on services. As regards repairs, there is some ambiguity as to their treatment as supply of goods or as supply of services whether to be treated as composite supply with significant 10% difference in rates applicable on components and service.
- g) State Level Vehicle Tax / Road Tax is not subsumed in GST and it will continue to be a cost to the customer. If taxes on acquisition of vehicle reduce, some States may be tempted to hike the Vehicle Tax. The Automobile Industry had strongly recommended that the Vehicle Tax be subsumed in GST which is not acceded to by the Government. (SIAM recommendations on GST).
- h) Car / vehicle leasing is expected to cost more to the customer with lease taxed at the same rate of central (& State) tax as applicable for sale of car / vehicle and further there being no transitional provision for credit of taxes already paid in respect of cars/ vehicles under on – going leases as also with no abatement for amount representing as interest in transactions for financial leasing including hire purchase, currently available under service tax.

2. Impact on cost of production and distribution:

Under the present tax structure, the OEMs are eligible for input tax credit of Central Excise Duty and VAT on their procurement of inputs and capital goods as well as for input tax credit of service tax on most of the services they avail. Their transactions are with registered entities and credit chain is well established to capture and avail of the input tax credits eligible. However, in the current structure there are inherent limitations on credit eligibility whereas under GST, input tax credit would be fully allowed barring a few exceptions, thereby cost incidence of tax paid at earlier stage in the supply chain would be totally avoided. This would lead to tax neutrality in both inward and outward transactions and business decisions can be made based purely on operating efficiency rather than on tax considerations. All this in effect would reduce the cost of procurement & production as well as cost of distribution

which would be the biggest benefit to industry in GST. The main potential areas for saving / additional benefit under GST are as follows:

- a) Saving of 2% CST on inter- state procurement.
- b) Saving in VAT surrender where the sales to customers in other States are routed through depots - commercial vehicles as well as on transfers of semi-finished goods to other factories – 4% or even more of corresponding purchases within State.
- c) Saving in octroi/ LBT/ Entry Taxes without credit on procurement.
- d) Input tax credit on outward transportation – net benefit where the vehicles are sold through depot – commercial vehicles.
- e) Vendor price reductions for corresponding benefits in supply chain as also towards excise duty on any transactions in the supply chain with entities not registered. Tax cascading effects in supply chain which can involve 3/4 levels will be avoided and which can also be built in negotiations
- f) Wider input tax credit availability e.g. warranty parts, services related to trading activities, items like furniture, office equipment etc. currently out of credit chain.
- g) Rationalization of procurement decisions due to flexibility arising out of tax neutrality e.g. decisions on job work, location of vendor no bar, level of assembly – all decisions can be made based on operating efficiency alone.
- h) Rationalization of vendor base.
- i) Tax neutrality will support procurement of higher level assemblies and consequently more outsourcing if economical.
- j) Realignment of production processes even if the units are in two different States e.g. centralized production of certain components and its supply to other units if operationally more efficient.
- k) Eventually, vendors will also rationalize their processes and locations to optimize costs.
- l) Realignment of distribution chain e.g. with no specific tax benefit to anyone in effecting sales through depots, depot operations can be restricted only based on business needs e.g. proximity to customer and possibilities of more direct sales from factory can be explored. The concepts like regional depots at central places to cater to dealers in more than one State due to tax neutrality and have the benefit of existence of depot at lower cost, bulk transportation by railway or even waterways up to certain central place for further distribution there from without tax implication etc. can be put through.
- m) Saving in current cost of non-abatement of Excise Duty on post- sale incentives,

However, the requirement for working capital on inventory at all stages – in factory, at depots, in transit, at dealerships will go up with blocking of more funds in taxes in the absence of transactions at concessional rate like C Form, F Form transactions currently possible.

While the scope for input tax credit is widened, compliance effort for the same would considerably go up with credit matching concept and new issues on reconciliation will arise.

3. Impact on the State Incentive Subsidies on current Investments / Area based Central Excise exemption in Uttarakhand

Most of large OEMs have made huge investments in particular States providing special incentives and are currently availing various package scheme incentives from the respective State governments. These schemes provide for payment of incentive based on the output State VAT/CST paid on the sales made from that State net of input tax credit availed in the particular State. In some cases the refund is provided for the State taxes paid on the gross basis. Further in some States there is upfront exemption from payment of sales tax.

With the advent of GST Regime the entire taxation concept for goods would be moving from origin based taxation to destination based consumption tax. Hence an OEM which is having a plant in a State and is making interstate sale from that plant, under GST Regime it would pay IGST which would accrue to the receiving State. Under the current regime the OEM would have paid CST which was collected by the originating State. Therefore, in GST Regime the concerned State Government would not be willing to give the subsidy in respect of the IGST paid on the interstate sale and also in respect of the CGST component collected in respect of the local sales.

The OEMs have already started representing this issue with the respective State Governments with suggestions as would protect the quantum of incentives.

This could be a major impact area for the companies who have made investment on the assumption that they would get a particular level of incentive/subsidy and a matter of concern till the issue is satisfactorily resolved with concerned State Government.

A number of OEMs were attracted to Uttarakhand, substantially keeping in mind the exemption from Central Excise Duty under the area based central excise exemption scheme. Since the concept of exemption is not in tune with the concept of free credit flow in GST, the scheme of benefit to units in the area would need total revision. There is no clarity in public domain on how the Central Government proposes to go about. While some of the OEMs have completed the period of exemption benefit, few companies are still within the benefit period and decision by the Central Government would be crucial for them. Besides, for these OEMs the decisions like product pricing under GST, vendor pricing etc. would be crucial but very complex.

4. Input Tax Credit on GST Transition Stock:

This may not normally be a major issue for OEMs at their factories since purchases are from registered entities and credits will be carried forward on the basis of returns. However, during transition, ensuring that credit is timely availed for all receipts will be challenge due to large volumes and diverse locations, though well set processes exist. The depots, predominantly in commercial vehicles, will have Excise Invoices as they receive

vehicles from OEM factories. Problem would be restricted to any vehicles transferred from other depots without Excise Invoice but the depot registrations and provision introduced for Credit Transfer Document will help in most such cases.

As far as dealers are concerned, in Cars and two wheelers, where there are direct sales to dealers, the dealers will have Excise invoices. As for sales from depots, commonly done in commercial vehicles, depot registrations have been taken by OEMs so that the dealers have excise invoices and problem is restricted to old stock prior to such arrangement. The provision introduced for Credit Transfer Document will help here also in most cases.

The 'eligible duties' on which credit is available to traders on transition do not include Infra-structure cess applicable on Cars. To that extent, credit will not be available to the dealers on the transition stock and the same would be a cost.

5. Finance, Accounting, Costing, Legal Compliance, Tax Administration, IT, Training etc.

The areas of implication which could be favourable or adverse as well as the areas which would need lot of effort are:

- (a) Overall reduction in cost but working capital requirement likely to go up. Continuation of quantum of Government incentives can be a concern for some OEMs.
- (b) Current VAT accumulation problem at manufacturing locations (due to transfers to depots/ CST sales at 2%) will not be there but the problem may shift to depots and need close monitoring.
- (c) Easier compliance in some matters e.g. no Section 4A / Rule 10A valuation, no GAQ computation on stock transfers, lesser classification issues, no Forms collection, no issue of pre-determined sale etc.
- (d) Big challenge of setting up new internal processes, accounting and IT system to comply with GST provisions in particular with new concepts like tax on advances received (a common practice in automobiles), credit matching, taxability of internal services, new valuation provisions, extension of related person concept & coverage of employees therein, ITC at depots, concept of composite supply and in particular its implications in services etc., some of which are very difficult to implement in OEMs who have complex operations and organization. Carried forward issues under old laws like assessments, litigations etc. will simultaneously continue.
- (e) Study of cost implication at Vendor end and re-negotiate the prices. Similarly, study of the cost implications at dealer end and dealer incentive schemes and re- work compensation and incentive schemes. Dealer incentives will have to be passed on with invoice reference.
- (f) Re- working of product and services pricing.
- (g) Extensive training – internal as well as external to Vendors and Dealers as they become partners in credit chain and any tax optimization efforts.
- (h) Absence of LTU & Centralized Service Tax registration under

GST – major tax administration concern for several companies operating under the same. Internal monitoring processes will change.

- (i) Tax function at States / depots / branches will have to be strengthened due to State level compliances and changes will be required in internal monitoring processes.
- (j) Compliance of anti-profiteering provisions.
- (k) Raising of self- invoicing on all purchases from unregistered persons. Plain reading and absence of clarification results in all imports also requiring self- invoicing - compliance efforts.

6. GST on Petroleum Products – a lost opportunity:

The diesel, petrol and CNG are and can reasonably be expected to continue for next few years at least to be the main fuel for Motor Vehicles on Indian roads. They constitute largest part of the cost of running a Motor Vehicle. As such, any policies concerning them have bearing on automobile industry. Diesel and petrol are heavily taxed by both the Centre and the States. Their inclusion in GST and the consequent benefits to Petroleum companies could rationalize their prices and also made extension of full GST principles to transport sector possible. This could possibly have helped Automobile sector in terms of demand for Motor Vehicles. However, with the decision to defer GST implementation for petroleum products for the time being, the automobile industry has lost the opportunity till the policy decision is made to include petroleum products under GST.

7. Long Term impact on its own products?

The tax neutrality because of GST would remove one barrier viz. tax cost in free movement of goods within country. Government is seriously pursuing the initiatives to reduce the road transportation time through improvement of road infrastructure as well as through various measures to reduce time involved in any procedural issues in transit. One such

initiative being implemented along with GST is E way bill. Over long term, all these initiatives, if not GST alone, can change distribution practices in the country, and consequently the goods transportation practices e.g. shift towards heavier vehicles for long distance transportation, which may have implication on demands across segments of goods vehicles.

Overall Conclusion:

The impacts on OEMs will be both positive and negative and great effort will be required to move over to GST regime. GST will have positive impact on profitability due to reduction in tax costs consequent upon free availability of credit for taxes on earlier transactions in the supply chain as well as due to enhanced efficiency and possibility to have re-look at all processes as a result of tax neutrality. The Automobile industry has fair amount of competence and experience to deal with such issues. The quantum of Government incentives may be a concern for some OEMs till the issue is settled. The GST rates are also by and large in line with the industry expectations, except the rate on hybrid cars. Working capital requirements may go up with more blockage of funds in tax component, will need monitoring and could certainly involve more cost. Overall tax compliance effort will drastically go up in the initial two years or so and dealing in the new set up and several new concepts & issues will be a critical challenge till the processes fully settle down. Assessment of impact areas within organization as well as at vendor and dealer end and reworking the prices is another massive exercise. The automobile industry can be expected to pass on overall likely gain to customers on account of severe competition and the statutory requirement but it would vary from model to model and considering all the complexities. it may be difficult to predict at this stage what per cent age of reduction will take place in prices to customers. On the whole despite the challenges in implementation, the industry has always welcome and supported the concept of value added taxation around which the GST is built.

– Contributed by Pune Study Group



JOB WORK UNDER GST

ISSUES ON JOB WORK PROVISIONS UNDER GST FROM PERSPECTIVE OF MANUFACTURERS – MAINLY THE ENGINEERING AND AUTOMOBILE SECTORS

Focus:

In this article, we have focussed on the issues on Job Work provisions under GST from perspective of manufacturers – mainly the Engineering and Automobile sectors who currently operate extensively under job work arrangements as envisaged under Central Excise.

Preliminary:

Job – work sector constitutes a significant industry in Indian economy. Its outsourced activity of working on the goods belonging to manufacturer. The parties undertaking operations on job work are by and large small parties, who would find it difficult to comply the detailed provisions of taxation. Job Work is now a well settled procedure under the Central Excise whereby a manufacturer can send out inputs – either raw material or semi-finished material or the capital goods to another party - job worker -for further processing, testing, repair, reconditioning or for the manufacture of intermediate goods necessary for manufacture of final products or for any other purpose and receive back after processing the inputs or the products produced therefrom or the capital goods for use in further manufacture, without the manufacturer or the job worker having to pay any duty on the inputs or capital goods so sent out. This is subject to following the prescribed conditions and restrictions. The charges paid to the job worker, in common parlance referred to as labour charges, are also exempt from Service Tax provided the goods are subject to excise duty, a condition which is generally met. Under the state VAT Laws, there are no specific provisions dealing with job work procedure but the labour charges are exempt from payment of VAT. Job work process is very widely used in manufacturing industries and a number of operations such as cleaning, shot blasting, deburring, cutting, pressing, repair, machining, assembly/manufacture of intermediate goods etc. as are done under the job work process. The job work being a beneficial provision, the concept, though with some modifications, is continued under GST. The advantage of job work procedure is that the goods can be sent out for further processing and received back without payment of tax at either end with the responsibility of what the job worker does resting with the manufacturer who sends the goods out for processing. This relieves the job workers of the onerous responsibility of availing input tax credit and paying output tax. The job work related provisions under the GST are briefly given below, sometimes comparing them with provisions under Central Excise from where these provisions under GST originate:

1. Section 2(68) of the CGST Act – ‘job work’ means any treatment or process undertaken by a person on goods belonging to another registered person (referred to as Principal) and the expression ‘job worker’ shall be construed accordingly. Since the words used are ‘any treatment or process’, the scope of the term job work is very wide. While the person sending the goods out for job work (i.e. Principal), has to be a registered person, the job worker may or may not be a registered person though operationally it would be advisable to deal with a registered

person only as job worker.

- 2. Schedule II of the CGST Act** – any treatment or process which is applied to another person’s goods is a supply of services. Thus, the charges for the job work done, in common parlance, labour charges, will attract GST (in the absence of any exemption as under the current service tax law) as supply of service @18%. However, since input tax credit would be available for the same, this would not add to cost.
- 3. Sections 19 and 143 of the CGST Act** - Principal can send inputs (or capital goods) outside for job work under intimation taking input tax credit thereon, and without disturbing the credit or without payment of tax and from there he can subsequently send them to another job worker and likewise. He can bring back within the specified time the inputs, after completion of job work or otherwise (or capital goods) to any of his place of business also without payment of tax. The Principal shall be entitled to take credit of input tax on inputs (or capital goods) even if inputs (or capital goods) are directly sent to job worker for job work without being first brought to his place of business.
- 4. Explanation to Section 143 of the CGST Act** – for the purpose of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker. Thus, the inputs after they have undergone some process at the end of principal or job worker can be sent on job work for further treatment or process.
- 5. Section 143 of the CGST Act** - the principal is accountable for the inputs (or capital goods) sent on job work. In particular, he has to ensure that they are brought back, within specified period of one year or three years respectively of the inputs or capital goods being sent out, after completing job work or otherwise, to any of his place of business. Alternately, he can declare the place of business of job worker as his additional place of business (or where the job worker is a registered under Section 25), and supply the inputs (or capital goods), after completing the job work or otherwise, from place of business of the job worker on payment of tax or export them under bond from such place which again has to be done within the aforesaid specified period of one year or three years respectively.
- 6. Failure to comply** will result into liability on the Principal to treat the inputs (or capital goods) to the extent not brought back or supplied from job worker’s business premises, as supplied to the job worker on the day they were sent out to job worker and accordingly pay tax and interest. Moreover, since there is no provision for relaxation of time frame of one year & three years respectively for input and capital goods to be brought back or supplied from job worker premises and as the input tax credit for the tax so paid may not be available to anyone, in order to avoid such cost, it is utmost essential that inputs (or capital goods) are brought back or supplied within the time frame and proper record of movement maintained. With regard to time frame for bringing back the inputs or capital goods, only

exception provided is for jigs, moulds, dies, fixtures and tools which generally once sent to a particular job worker, remain with him for a long time often till their useful life. (Section 143 of the CGST Act).

7. **The above provisions** are on the lines of current provisions of Rule 4 (5) of CENVAT Credit Rules except that under the CENVAT Credit Rules, there is no requirement of intimation but these provisions under GST are more liberal in so far as supplies from job worker's premises are concerned since under the CENVAT Credit Rules, such arrangement is subject to order under Rule 4(6) from jurisdictional Deputy / Assistant Commissioner granting permission on the conditions he may impose to protect revenue. Moreover, while the time frame under the GST provisions to get back the inputs (or capital goods) after job work is longer, it is rigid and if not met, the tax amount may be lost with interest as against the provision under the CENVAT Credit Rules which allows availing credit again where the inputs or capital goods are received back after the stipulated period.
8. **As per Input Tax Credit & Invoice Rules under GST**, the inputs, semi-finished goods or capital goods are required to be sent by the principal to the job worker under the cover of a delivery challan containing specified details including where the goods are sent directly to job worker. The details of challans in respect of goods dispatched to a job worker or received from a job worker during a tax period are required to be included in Form GSTR 1 (outward supplies) for that tax period. Where the inputs or capital goods are not returned to the Principal within the time stipulated under Section 143, the delivery challan shall be deemed to be invoice for the purposes of GST provisions.
9. **As per Section 143 of the CGST Act**, there is no requirement that scrap generated at job worker end has to be brought back by the Principal. It may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal if the job worker is not registered. Since the Principal is responsible for proper accounting it is nevertheless advisable that he ensures that scrap is properly disposed of paying tax thereon. Another related issue is that the job worker is often allowed to retain the scrap and its value is adjusted in arriving at labour charges. In that case, considering the provisions of Valuation Rules, scrap value will have to be added to labour charges for payment of GST thereon by the job worker.
10. **As per transition provisions**, where inputs as such or partly processed inputs are sent to job worker prior to appointed day under provisions of Central Excise, and if such goods are returned within six months of the appointed day, no tax would be payable. However, if such goods are not returned within the prescribed time, the input tax credit availed on such goods will be liable to be recovered from manufacturer. The manufacturer and the job worker are required to declare the details of such goods sent / received on job work and held in stock on the appointed day in prescribed format GST TRAN 1 within 90 days of the appointed day. It is imperative that the manufacturer and job worker properly reconcile their records in advance and the details provided by them in respective GST TRAN 1 match.

As mentioned earlier, the definition under GST of the term job work is quite wide. Under GST, the arrangement can be continued to be used for outsourcing number of manufacturing processes

as currently done under Central Excise. This can be done without affecting the input tax credit or without paying tax while sending inputs (or capital goods) out on job work or while receiving the same back by following the procedure, which is substantially on the lines of CENVAT Credit Rules, subject to change that labour charges will attract GST and keeping in mind the rigidity of provisions on time frame. Similarly, the facility for sending dies, moulds, fixtures etc. as required at job worker end without disturbing the credit thereon continues as under Central Excise. Hence, the job work procedure will continue to be extensively followed by manufacturers in Engineering and Automobile sectors. At the same time, the benefit in sales tax currently there in the job work will be neutralized in GST and the decision (particularly true for large organizations) on whether to go in for job work or ask the supplier to procure all the material, will substantially depend on operational & pricing considerations.

Few specific issues concerning job work are dealt with in subsequent paras.

A. Job Work arrangement with related person – will goods sent to job worker who is a related person be treated as supply under provisions of Schedule I?

No - for the reasons stated below.

Job Work is an arrangement under which the Principal sends inputs (or capital goods) belonging to him to another person for carrying out any treatment or process assuming accountability for the same with obligation to pay tax and interest if the inputs (or capital goods) are not brought back or supplied from job worker's premises after completion of job work or otherwise, within stipulated time.

Section 143 specifically provides that the inputs (or capital goods) can be sent to job worker without payment of tax. Further, as per the same section, the inputs (or capital goods) shall be deemed to have been supplied by the Principal to the job worker on the day they were sent out to the job worker if the inputs (or capital goods) are not received back or supplied from job worker's premises within stipulated time. It can be inferred that till such eventuality, sending of goods to job worker will not be a supply.

Input Tax Credit Rules and Invoice Rules under GST provide that goods can be sent for job work under the cover of delivery challan (& not tax invoice) and where the goods are not returned within the time frame stipulated under Section 143, the delivery challan shall be deemed to be invoice. This supports the inference drawn in the above para.

As such, there would be no liability to pay tax while sending goods on job work even where sent to a related person for job work. In other words, there is no need for treating it to be a case of supply without consideration to related person in view of above specific provisions even considering wide connotation of term 'transfer' used in definition of term 'supply'.

However, the issue of job worker being related person will have to be considered as per Valuation Rule provisions (a) for the value of supply (job work charges) by the job worker and (b) for value of supply of inputs (or capital goods) if eventually not brought back / supplied from job worker premises in stipulated time.

Incidentally, under Central Excise from where the provisions of job work have been adopted in GST, there is no provision that goods should be valued and duty paid when sent to a job worker who is

a related person.

B. Inputs sent for job work – is it exempt supply?

No for reasons stated below.

Inputs sent for job work is not a supply attracting nil rate of tax. It is not supply of goods specifically exempted from tax by Notification under provisions of Act. It also does not fall under 'non-taxable supply' i.e. supply not leviable to GST as it is neither the goods excluded from scope of GST nor it falls in category of transactions which are neither a supply of goods nor of services (Schedule III). Hence, value of inputs sent for job work cannot be regarded as supply of exempted goods. Same is the position under Central Excise.

C. Supply of goods partially using the inputs provided free of cost by the recipient and partially the inputs procured by the supplier himself - will it be treated as job work?

There appears some ambiguity for reasons stated below.

Sometimes arising out of the commercial considerations the arrangement is that the recipient provides some inputs to the supplier without charging him anything for the same and supplier procures other input on his own account to make supply. For example, customer provides component A to supplier free of cost, supplier procures other components B, C & D, manufactures out of A, B, C & D a product Z and supplies the same to customer. The proportion of values of inputs provided by customer and those procured by supplier could vary from case to case. Can supply of product Z be said to be covered under job work? Since it's a composite supply comprising both material and labour, should supplier treat it as supply of goods or as supply of service under job work?

Under Central Excise, such situations were covered under Rule 6 of the Central Excise Valuation Rules. However, in GST, there is no corresponding rule.

The term treatment or process on goods as used in GST has wide scope but in order that a transaction is treated as job work, the treatment or process may have to be on the inputs belonging to the registered recipient/Principal. Where part of the material, in varying proportions, is procured by the supplier, can it be said to be treatment or process on goods belonging to the Principal to merit treatment as job work? If supplier pays tax only on his value but treating supply of product Z as supply of goods which may be carrying higher rate of tax applying composite supply rule, can customer's supplying component A and supplier's supplying product Z without paying tax on value of component A still fit into job work procedure?

On the other hand, in the example given above, even in the absence of specific rule guided by assumption that it's a case of part exchange, if the customer pays tax on component A and the supplier pays tax including value of component A, since the supplier is not paying customer for component A, the second proviso to Section 16(2) of the CGST Act will bar him from taking input tax credit for the tax paid by customer. This would make the proposition unviable.

There thus appears ambiguity on how such transactions which are quite common are to be dealt with. Under GST the benefit one gets today in sales tax on such transactions (as ownership of inputs



supplied by the customer always continues to vest with him and not transferred to / back from supplier) will be neutralized. But still as a number of such transactions are likely to continue because of commercial considerations, Government needs to come out with proper amendment/ clarification to avoid disputes at later date.

D. Body Building -Will it be covered under job work?

The chassis on which body is mounted / fabricated is supplied by the customer to the body builder. The body builder procures the material required for body and mounts / fabricates the body on the chassis supplied by the customer. The issues are same as under C above.

E. Inputs to be sent directly to some other place after job work:

Process is made easier under GST.

Under Central Excise, where the inputs are to be sent after job work to any place other than the factory of the manufacturer sending the inputs, sometimes operational difficulty arises in working under the job work due to requirement as per Rule 4(5) of the CENVAT Credit Rules to receive the inputs or the products produced therefrom back by the manufacturer himself (e.g. where the movement to and again from factory is expensive). In order to overcome this, as an alternative to seeking permission under Rule 4(6) of CENVAT Credit Rules, in situations like where the inputs after processing are to be sent to other factories of the same Company for further use in manufacture, the transactions are done on duty payment (where revenue neutral) instead of the job work. In GST such difficulty should not arise under job work process since as per Section 143 the Principal sending the inputs can supply such inputs, after completion of job work or otherwise, from the place of the job worker itself subject to job worker being registered or Principal declaring the place of business of the job worker as his additional place of business – which would be generally easier to comply.

"You may visit the link <http://idtc.icaigst.org/gst.html> for many more article on GST"

– Contributed by Pune Study Group

FAQS ON COMPOSITION LEVY UNDER GST*

Q 1. What is composition levy under GST?

Ans. The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to Rs. 75 lakhs (Rs. 50 lakhs in case of few States). The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Moreover, it is optional and the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of his turnover every quarter, instead of paying tax at normal rate.

Q 2. What is the specified rate of composition levy?

S. No.	Category of Registered person	Rate of Tax
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government (Ice cream, Pan Masala, Tobacco products etc.)	2% (1% Central tax plus 1% State tax) of the turnover
2	Restaurant Services	5% (2.5% Central tax plus 2.5% SGST) of the turnover
3	Traders or any other supplier eligible for composition levy	1% (0.5% Central tax plus 0.5% State tax) of the turnover

Q 3. What is the eligibility category for opting for composition levy? Which are the Special Category States in which the turnover limit for Composition Levy for Central tax and State tax purpose shall be Rs. 50 lakhs?

Ans. Composition scheme is a scheme for payment of GST available to small tax payers whose aggregate turnover in the preceding financial year did not cross Rs. 75 lakhs. In the case of the following States, the limit of turnover is Rs. 50 lakhs:-

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

Q 4. Who are the persons not eligible for composition scheme?

Ans. Following persons are not allowed to opt for the composition scheme:

- a casual taxable person or a non-resident taxable person;
- suppliers whose aggregate turnover in the preceding financial year crossed Rs. 75 lakhs;
- supplier who has purchased any goods or services from unregistered supplier unless he has paid GST on such

- goods or services on reverse charge basis;
- supplier of services, other than restaurant service;
- persons supplying goods which are not taxable under GST law;
- persons making any inter-State outward supplies of goods;
- suppliers making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- a manufacturer of following goods:

S. No.	Classification (Tariff item/ Chapter)	Descriptions
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2	2106 90 20	Pan masala
3	24	Tobacco and manufactured tobacco substitutes

Note: There is no restriction on procuring goods from inter-state suppliers by persons opting for the composition scheme

Q 5. When will a person opting for composition levy pay tax?

Ans. A person opting for composition levy will have to pay tax on quarterly basis before 18th of the month succeeding the quarter during which the supplies were made.

Q 6. A person availing composition scheme during a financial year crosses the turnover of Rs.75 lakhs/50 lakhs during the course of the year i.e. say he crosses the turnover of Rs.75 lakhs/50 lakhs in December? Will he be allowed to pay tax under composition scheme for the remainder of the year i.e. till 31st March?

Ans. No. The option to pay tax under composition scheme lapses from the day on which his aggregate turnover during the financial year exceeds the specified limit (Rs. 75 lakhs / Rs. 50 lakhs). He is required to file an intimation for withdrawal from the scheme in FORM GST CMP-04 within seven days from the day on which the threshold limit has been crossed. However, such person shall be allowed to avail the input tax credit in respect of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him and on capital goods held by him on the date of withdrawal and furnish a statement within 30 days of withdrawal containing the details of such stock held in FORM GST ITC-01 on the common portal.

Q 7. How will the aggregate turnover be computed for the purpose of composition?

Ans. Aggregate turnover will be computed on the basis of turnover on an all India basis and will include value of all taxable supplies, exempt supplies and exports made by all persons with same PAN, but would exclude inward supplies under reverse charge as well as central, State/Union

Territory and Integrated taxes and cess.

Q 8. Can a person who has opted to pay tax under the composition scheme avail Input Tax Credit on his inward supplies?

Ans. No. A taxable person opting to pay tax under the composition scheme is out of the credit chain. He cannot take credit on his input supplies. When he switch over from composition scheme to normal scheme, eligible credit on the date of transition would be allowed (refer Q 6 above).

Q 9. Can a registered person, who purchases goods from a taxable person paying tax under the composition scheme, avail credit of tax paid on purchases made from the composition dealer?

Ans. No as the composition dealer cannot collect tax paid by him on outward supplies from his customers, the registered person making purchases from a taxable person paying tax under the composition scheme cannot avail credit.

Q 10. Can a person paying tax under the composition scheme issue a tax invoice under GST?

Ans. No. He can issue a bill of supply in lieu of tax invoice.

Q 11. Are monthly returns required to be filed by the person opting to pay tax under the composition scheme?

Ans. No. Such persons need to electronically file quarterly returns in Form GSTR-4 on the GSTN common portal by the 18th of the month succeeding the quarter. For example return in respect of supplies made during July, 2017 to September, 2017 is required to be filed by 18th October, 2017.

Q 12. What are the basic information that need to be furnished in GSTR-4?

Ans. It would contain details of the turnover in the State or Union territory, inward supplies of goods or services or both and tax payable.

Q 13. A person opting to pay tax under the composition scheme receives inputs/input services from an unregistered person. Will the composition taxpayer have to pay GST under reverse charge? If yes, in what manner?

Ans. Yes. Tax will have to be paid on such supplies by the composition taxpayer under reverse charge mechanism. The tax can be paid by the 18th day of the month succeeding the quarter in which such supplies were received. The information relating to such supplies should be shown by the composition taxpayer in Table 4 of return in FORM GSTR -4.

Q 14. What is the form in which an intimation for payment of tax under composition scheme needs to be made by the taxable person?

Ans. The intimation is to be filed electronically in FORM GST CMP- 01 or FORM GST CMP- 02.

Q 15. A person registered under existing law (Central Excise/ Service Tax/VAT) and who has been granted registration on a provisional basis wants to opt for composition scheme. How and when can he do that?

Ans. Such a person has to electronically file a duly signed/verified intimation in FORM GST CMP-01, on the common portal, prior to 22nd June, 2017 or such further period as may be allowed by the Commissioner.

Q 16. What are the other compliances which a provisionally registered person opting to pay tax under the composition levy need to make?

Ans. Such person is required to furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the composition scheme, electronically, in FORM GST CMP-03, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within a period of sixty days from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

Q 17. Can a person making application for fresh registration under GST opt for composition levy at the time of making application for registration?

Ans. Yes. Such persons can give the option to pay tax under the composition scheme in Part B of FORM GST REG-01. This will be considered as an intimation to pay tax under the composition scheme.

Q 18. Can the option to pay tax under composition levy be exercised at any time of the year?

Ans. No. The option is required to be given electronically in FORM GST CMP-02, prior to the commencement of the relevant financial year.

Q 19. Can a person who has already obtained registration, opt for payment under composition levy? If so, how?

Ans. Yes. Such persons need to give intimation electronically in Form GST CMP-02 but from beginning of the financial year only.

Q 20. What are the compliances from ITC reversal point of view that need to be made by a person opting for composition levy?

Ans. The registered person opting to pay tax under composition scheme is required to pay an amount equal to the input tax credit in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of exercise of option. The ITC on inputs shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by the registered taxable person on such inputs.

In respect of capital goods held in stock on the day immediately preceding the date of exercise of option, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as 5 years. Assume capital goods have been in use for 4 years, 6 months and 15 days. The useful remaining life in months will be 5 months ignoring the part of the month. If ITC on such capital goods is taken as C, ITC attributable to the remaining useful life will be C multiplied by 5/60. This would be the amount payable on capital goods.

The ITC amount shall be determined separately for integrated tax, central tax and state tax/Union territory tax. The payment can be made by debiting electronic credit ledger, if there is sufficient balance in the said ledger, or by debiting electronic cash ledger. The balance, if any in the electronic credit ledger would lapse.

Such persons also have to furnish the statement in FORM GST ITC-03 which is a declaration for intimation of ITC reversal/payment of tax on inputs held in stock, inputs contained in semi-finished and finished goods held in stock and capital goods under Section 18(4) of the CGST Act, 2017

within a period of sixty days from the commencement of the relevant financial year.

Q 21. In case a person has registration in multiple states? Can he opt for payment of tax under composition levy only in one state and not in other state?

Ans. The option to pay tax under composition scheme will have to be exercised for all States.

Q 22. What is the effective date of composition levy?

Ans. There can be three situations:

Situation	Effective date of composition levy
Persons who have been granted provisional registration and who opt for composition levy (Intimation under Rule 3(1))	The appointed date is 22nd June, 2017
Persons opting for composition levy at the time of making application for new registration in the same registration application itself (Intimation under Rule 3(2))	Effective date of registration; Intimation shall be considered only after the grant of registration and his option to pay tax under section 10 shall be effective from the effective date of registration
Persons opting for composition after obtaining registration (Intimation under Rule 3(3))	The beginning of the financial year

Q 23. What are the other conditions and restrictions subject to which a person is allowed to avail of composition scheme?

Ans. The person exercising the option to pay tax under section 10 shall comply with the following other conditions (in addition to what is stated in answer to Q 4 above), namely: -

- he shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him; and
- he shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

Q 24. What is the validity of composition levy?

Ans. The option to pay tax under composition levy would remain valid so long as conditions mentioned in section 10 of the CGST Act, 2017 and Rule 3 to 5 of the CGST Rules, 2017 remain satisfied.

Q 25. Can a person paying tax under composition levy, withdraw voluntarily from the scheme? If so, how?

Ans. Yes. The registered person who intends to withdraw from the composition scheme can file a duly signed or verified application in FORM GST CMP-04.

Every person who has filed an application for withdrawal from the composition scheme, may electronically furnish, a statement in FORM GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date of withdrawal, within a period of thirty days of withdrawal.

Q 26. What action can be taken by the proper officer for

contravention of any provisions of composition levy and how?

Ans. Where any contravention is observed by the proper officer wherein the registered person was not eligible to pay tax under the composition scheme or has contravened the provisions of the CGST Act, 2017 or provisions of Chapter II of the CGST Rules, 2017, he may issue a notice to such person in FORM GST CMP-05 to show cause within fifteen days of the receipt of such notice as to why the option to pay tax under the composition scheme shall not be denied.

Upon receipt of the reply to the said show cause notice in FORM GST CMP-06, the proper officer shall issue an order in FORM GST CMP-07 within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under the composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.

Q 27. In case the option to pay tax under composition levy is denied by the proper officer, can the person avail ITC on stock after denial?

Ans. Yes. ITC can be availed by filing, a statement in FORM GST ITC-01 (containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock) by him on the date on which the option is denied as per order in FORM GST CMP-07, within a period of thirty days from the order.

Q 28. Will withdrawal intimation in any one place be applicable to all places of business?

Ans. Yes. Any intimation or application for withdrawal in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

Q 30. Can supplier of Services opt for composition levy?

Ans. No, the only exception being supplier of restaurant services.

Q 31. What are the penal consequences if a person opts for the composition scheme in violation of the conditions?

Ans. If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme then the person would be liable to penalty and the provisions of section 73 or 74 shall be applicable for determination of tax and penalty.

Q 32. Can a person paying tax under composition scheme make supplies of goods to SEZ?

Ans. No. Supplies to SEZ from domestic tariff area will be treated as inter-State supply. A person paying tax under composition scheme cannot make inter-State outward supply of goods. Thus, for making supplies to an SEZ unit, a person needs to take registration as a regular taxpayer. The supplies to SEZ will be zero rated and the supplier will be entitled to make supplies without payment of tax or if he pays tax, he will be entitled to refund of tax so paid.

Q 33. A registered person has excess ITC of Rs 10, 000/- in his last VAT return for the period immediately preceding the appointed day. Under GST he opts for composition scheme. Can he carry forward the aforesaid excess ITC to GST?

Ans. The registered person will not be able to carry forward the excess ITC of VAT to GST if he opts for composition scheme.

[Source: www.cbec.gov.in]

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

1. E-Learning on GST: ICAI has launched E-learning on GST through recorded video sessions covering almost the entire topics of GST on 7th July, 2017. There are total 18 recorded video on different topics of GST in this scheme.

2. Recent Publications on GST:

The Institute has recently released the following publications which have been updated with recent changes:

- (a) Bare Law on GST Act(s) and Rule(s) – July 2017
- (b) Background Material on GST Act(s) and Draft Rule(s), 2017 – June 2017
- (c) FAQs and MCQs on GST, June 2017
- (d) Simplified GST Guide for Manufacturer, Feb-2017
- (e) Study Paper on Taxation of E-Commerce under GST, Feb-2017
- (f) Study Paper on Unjust Enrichment, Feb-2017

These publications can be downloaded at <http://idtc.icai.org/publications.php> and can be ordered online at <https://icaionlinestore.org/indirect-taxes-committee>

3. Support extended to Goods and Services Tax Network (GSTN): On the request being received, Committee has nominated 23 members to the GSTN for testing of return form GSTR 1, GSTR-2A.

4. Interactive Programme on GST for trade associations

In addition to earlier organised 19 programmes, 1 more programme has been organised by the committee at Mumbai for Cotton Association of India on 17th July, 2017 as part of its initiatives for partner in nation building. Further, few more interactive programmes on GST have been scheduled.

5. 10 Days Certificate Course on GST

The Committee launched a Certificate Course on Goods and Services Tax (GST) at more than 47 locations all over India with a view to facilitate members in industry as well as in practice with specialized and updated knowledge of GST in a systematic manner which could enable them to take up various professional opportunities offered in this area. The course is much appreciated and well received by the members wherein 2554 members have been trained. Further, 1768 members have attended Certificate Course through virtual classes.

6. Setting up of GST Sahayata Desks

ICAI has set up GST Sahayata desks at its various branches across the country to help resolve the GST related issues of traders, industry and public at large. At present there are more than 100 desks functioning wherein GST experts resolve generic GST queries.

7. Suggestions on GST Act

ICAI has submitted its suggestions (Part-I) on the GST Acts to the Government on 30th May, 2017, which can be downloaded from the website <http://idtc.icai.org/>. The comprehensive suggestions on the same has been finalised and would be submitted to the Government shortly.

8. Short video on GST

Committee has recorded a short video on lectures on process of migration into GST and its benefits, which can be viewed at <https://youtu.be/Cc9UgEIKdFg> Further, recording of short video on majority of the topics of GST based on GST Act is going on and would be hosted shortly.

9. Training Programme on GST for Government Officials/PSU

With a view to support the Government in capacity building, the Institute has been regularly organising training programme on GST for the Officials of various Commissionerates/departments of the Government. During the period 1st June to 15th July, 2017, such training programme has been organised for 11 Commissionerates/departments.

10. Workshops, Seminars and Conferences: More than 2300 workshops, seminars and conferences on GST have been organised across the country since January, 2017 wherein more than 1,70,000/- members have participated

11. A Study Report to enable smooth Transition from Pre-GST to Post-GST Regime: With a view to facilitate the Government in smooth transition from Pre-GST to Post-GST Regime, the report prepared and submitted by ICAI and it can be downloaded from <http://idtc.icai.org/budget-memorandum.html>

12. A Study Report on Impact of GST on Jammu & Kashmir Taxation System: With a view to facilitate the Government of Jammu & Kashmir in understanding the impact of GST on Jammu & Kashmir Taxation System, the ICAI submitted a Study Report to the Government of Jammu & Kashmir. The reports submitted by ICAI can be downloaded from <http://idtc.icai.org/publications.php>

13. Impact of GST Regime on Finances & Economy in Delhi

With a view to facilitate the Government of Delhi in understanding the impact of GST on Delhi Taxation System, the Indirect Taxes Committee has submitted a Study Report to the Delhi Government. The report entails the impact of GST implementation on Delhi economy, provides a comparative report on revenue under the present and GST regime etc.

14. Nomination at the Advisory Committee constituted by Goods and Services Tax Network (GSTN): Considering the expertise of members of ICAI, Goods and Services Tax Network requested ICAI to nominate its member at the Advisory Committee constituted by Goods and Services Tax Network. Accordingly, ICAI has nominated members at the said advisory Committee.

15. Formation of Study Group for helping State Government in smooth implementation of GST: The Institute has already formed twenty (20) State level Study Group for extending its support to the State Government in smooth implementation of GST.

16. Identification and Training of new speakers on GST: 500 new speakers have been identified and trained in Model GST Law making the expert pool of over 700 faculties across India.



Certificate Course on GST at Udupi



Certificate Course on GST at Noida



Refresher Course on GST at New Delhi



Seminar on GST at Latur



Seminar on GST at Sambalpur



Seminar on GST at Vapi



Seminar on GST at WIRC



Workshop on GST at Aurangabad