

GOODS & SERVICES TAX / IDT UPDATE – 43

The present system of filing of GSTR 3B is extended for another three months i.e., April to June,

The Central Government vide [Notification No. 16 /2018 – Central Tax dated 23rd March, 2018](#) has notified that the present system of filing of GSTR 3B has been extended for another three months i.e., April to June, 2018 and the return is required to be filed on or before the last date as specified in the corresponding entry in column (3) of the said Table, namely:-

Sl. No (1)	Month (2)	Last date for filing of return in FORM GSTR-3B (3)
1.	April, 2018	20th May, 2018
2.	May, 2018	20th June, 2018
3.	June, 2018	20th July, 2018

Every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date on which he is required to furnish the said return.

[[Notification No. 16 /2018 – Central Tax dated 23rd March, 2018](#)]

Introduction of e-way bill

The Central Government vide [Notification No. 15/2018 – Central Tax dated 23rd March, 2018](#) has notified that the provisions of sub-rules (ii) [other than clause (7)], (iii), (iv), (v), (vi) and (vii) of rule 2 of notification No. 12/2018 – Central Tax, dated the 7th March, 2018 shall come into force from 1st day of April, 2018.

Comments: (i) 9/2018-CT dated 23rd January, 2018 appoints “www.ewaybillgst.gst.in” to be the official website for generation of EBN

(ii) Rule 138 of CGST Rules has been brought into force by notification under section 164 of the CGST Act

(iii) Similarly, notification(s) under section 164 of the SGST Act(s) are required for EWB applicability to intra-State movement of goods

(iv) In the absence of corresponding State/UT notifications, all intra-State movements will be free from requirement of EWB until notified (except State of Karnataka which has issued its SGST notification)

(v) Notifications issued under CGST Act are mutatis mutandis applicable to IGST Act as such, inter-State movements attract the requirement of EWB immediately (from 1st April, 2018)

(vi) There is no need not for any concern about CGST officers inspecting vehicles during intra-State movement without EWB because generation of EWB is not possible where ‘dispatch’ and ‘delivery’ are in same State (except in case of Karnataka).

[[Notification No. 15/2018 – Central Tax dated 23rd March, 2018](#)]

Clarification on issues related to Job Work

The Central Government vide *Circular No.38/12/2018 – Central Tax dated 26th March, 2018* has clarified various issues related to Job work which are as follows:

- The registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and on completion of the job work, the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within 1 year in case of inputs or within 3 years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

Sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within 1/3 years of being sent out.

Comment: This is a welcome clarification that eliminates doubts both to industry and administration that 'sending goods for job-work is not a supply' as it does not satisfy any limb in the definition in section 7 of CGST Act. It is for this reason that section 19(3)/19(6) of CGST Act 'deems' non-return of goods within the time limit to be a supply. From this, it can be clearly appreciated that 'sending moulds for job-work' is also not supply.

- It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal.
- **Scope/ambit of job work:** The job worker is expected to work on the goods sent by the principal only. In this regard it is clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.
- **Requirement of registration for the principal/ job worker:** It is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.
- **Supply of goods by the principal from job worker's place of business / premises:** It is clarified that the supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker.
- **Movement of goods from the principal to the job worker and the documents and intimation required therefor:** The following is clarified with respect to the issuance of challan, furnishing of intimation and other documentary requirements in this regard:
 - (i) **Where goods are sent by principal to only one job worker:** The principal shall prepare in triplicate, the challan in terms of rules 45 and 55 of the CGST Rules, for sending the goods to a job worker. Two copies of the challan may be sent to the job worker along with the goods. The job worker should send one copy of the said challan along with the goods, while returning them to the principal. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act, 2017.
 - (ii) **Where goods are sent from one job worker to another job worker:** In such cases, the goods may move under the cover of a challan issued either by the principal or the job worker. In the alternative, the challan issued by the principal may be endorsed by the

job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers.

- (iii) **Where the goods are returned to the principal by the job worker:** The job worker should send one copy of the challan received by him from the principal while returning the goods to the principal after carrying out the job work.
- (iv) **Where the goods are sent directly by the supplier to the job worker:** In this case, the goods may move from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's name and address should also be mentioned as the consignee, in terms of rule 46(o) of the CGST Rules. The buyer (i.e., the principal) shall issue the challan under rule 45 of the 7 CGST Rules and send the same to the job worker directly in terms of para (i) above. In case of import of goods by the principal which are then supplied directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker with a copy of the Bill of Entry and the principal shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly.
- (v) **Where goods are returned in piecemeal by the job worker:** In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.
- (vi) **Submission of intimation:** Rule 45(3) of the CGST Rules provides that the principal is required to furnish the details of challans in respect of goods sent to a job worker or received from a job worker or sent from one job worker to another job worker during a quarter in FORM GST ITC-04 by the 25th day of the month succeeding the quarter or within such period as may be extended by the Commissioner. It is clarified that it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker or from one job worker to another and its return therefrom. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act.
- **Liability to issue invoice, determination of place of supply and payment of GST:** On conjoint reading of all the related provisions the following is clarified with respect to the issuance of an invoice, time of supply and value of supply:
 - (i) **Supply of job work services:** The job worker, as a supplier of services, is liable to pay GST on the value of supply of such service if he is liable to be registered. In this regard, it is clarified that the value of moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

Comment: the reference here to section 15(2)(b) implies that only if the job-workers was required to provide the moulds but provided by the Principal, then the value of moulds should be included in the value of job-work charges. But, if almost all cases, the Principal

provides the moulds not as an option but as an obligation to ensure that the job-worker is not burdened with the responsibility of making the moulds. Providing the mould is not a 'liability of job-worker met by Principal'. As such, GST is applicable on the 'transaction value'. Inclusion of value of capital goods or inputs provided as 'free issue' material to the job-work does not requires to be included the value of job-work charges. Please see previous comment about 'sending moulds not being supply'. When it is not a supply, it cannot be included in the value.

(ii) Supply of goods by the principal from the place of business/ premises of job worker:

Section 143 of the CGST Act provides that the principal may supply, from the place of business / premises of a job worker after completion of job work or otherwise. Since the supply is being made by the principal, it is clarified that the time, value and place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises. Further, the invoice would have to be issued by the principal. It is also clarified that in case of exports directly from the job worker's place of business/premises, the LUT or bond, as the case may be, shall be executed by the principal.

Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

Comment: In the above illustration, it does not clearly mention that the Principal who desires to make direct supplies from the premises of job-worker (State B) will be required to register in State B to be compliant with proviso to section 143(1). Care should to taken that each State is a distinct jurisdiction for purposes of section 22 of CGST Act regarding registration.

(iii) Supply of waste and scrap generated during the job work: Sub - section (5) of Section 143 of the CGST Act provides that the waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business or by the principal in case the job worker is not registered. The principles enunciated in Para (ii) above would apply mutatis mutandis in this case.

- **Violation of conditions laid down in section 143:** If the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST 11 Act read with the rules made thereunder
- **Availability of input tax credit to the principal and job worker:** In this regard, It is clarified that the input tax credit would be available to the principal, irrespective of the fact whether the inputs or capital goods are received by the principal and then sent to the job worker for processing, etc. or whether they are directly received at the job worker's place of

business/premises, without being brought to the premises of the principal. It is also clarified that the job worker is also eligible to avail ITC on inputs, etc. used by him in supplying the job work services if he is registered.

[Circular No.38/12/2018 – Central Tax dated 26th March, 2018]

Clarity on E-Way Bill

Government has received various representations from Association of Exporters as well as Corporate Bodies seeking clarity on e-way bill regarding movement of goods from dry-ports to sea ports and from SEZs within the zone. Some of the queries regarding applicability of e-way bill provisions are as below :

- i. Exemption for export consignments during custom bonded movement from one airport to another;
- ii. Movement from SEZ/FTWZ (Free Trade Warehousing Zone) to port and vice versa;
- iii. Parity in movement of export cargo with import cargo.

To clarify this issue the Central Goods and Services tax Rules, 2017 (CGST Rules) have been amended vide notification No. 12/2018-Central Tax dated 07.03.2018. As per sub-clauses (c) and (h) of sub-rule (14) of rule 138 of the CGST Rules, no e-way bill is required to be generated where the goods are being transported:

- i. from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- ii. under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port;
- iii. under customs supervision or under customs seal.

Comment: It is to be kept in mind that 'inter-State supply' is not to be equated with 'inter-State movement'. An intra-State supply may entail inter-State movement (eg. bill to-ship to transaction) and an inter-State supply may entail intra-State movement (eg. imported goods which are moved from the port of entry in Mumbai to place of delivery in Pune).

(Release ID :177855)

States Exempted from Tax Refund after GST

The North Eastern and Hilly States have not been provided exemption from tax refund till March, 2027 under GST. The GST Council had decided that all entities exempted from payment of indirect tax under the earlier tax incentive scheme shall pay tax in the GST regime. It was also decided that the decision to continue with any incentive given to specific industries in existing industrial policies of States or through any Schemes of the Central Government, shall be with the concerned State or Central Government and in case the State or Central Government decides to continue any existing exemption/incentive/deferral Scheme, then it shall be administered by way of a reimbursement mechanism through the budgetary route, the modalities for which shall be worked-out by the concerned State/Centre.

The Central Government, w.e.f. 01.07.2017, has notified a Scheme for grant of Budgetary Support to the eligible units which were availing exemption or refund benefit, for the residual period of exemption under erstwhile Central Excise regime. The support under the scheme will be equal to the share of Central Government of CGST/IGST paid by the unit after utilisation of credit of Central and Integrated Tax.

Goods & Services Tax (GST) collections

The month-wise consolidated figures of Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), Integrated Goods and Services Tax (IGST) and Cess collected by the Government since July 1, 2017 is as under:

(Amount in Rs. Crores)

Month	Collection
August, 2017	93,590
September, 2017	93,029
October, 2017	95,132
November, 2017	85,931
December, 2017	83,716
January, 2018	88,929

The GST collections have increased in the months of Jan. 2018 in comparison to previous two months.

The summary of returns filed for the month of January, 2018 is detailed below:

Taxpayers required to file Return (Other than composition Taxpayers)	GSTR-3B filed till last day of filing	% of returns filed till last date of filing	Filed till 18th March 2018	% of filing as on 18th March, 2018
83,52,202	53,94,018	64.58%	62,96,048	75.38%

The Government is taking various steps to check evasion as well as educate the taxpayers about the new tax regime and encouraging voluntary compliance. The steps which are being taken include introduction of e-way bill, simplification of measures for filing tax returns, steps to capture invoice details of transactions so that the same could be matched with credit taken and verification of transition credit availed by tax payers.

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[<http://pib.nic.in/newsite/erelease.aspx>]

Article on “GST Audit – some basics ”

Reader may view recent article on GST Audit- basics which is available at <https://goo.gl/2cHmCP>.

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