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ICAI-GST

NEWSLETTER

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



Brining together Central Government **(G)**, State Governments **(S)** and Union Territories **(T)**

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President's Communication



My Esteemed professional colleagues,

Heartfelt thanks to all readers of GST Newsletter of ICAI. With this issue we are going to complete the first year of publication. We at ICAI have been taking various measures and initiatives and working tirelessly to support the Government in National interest as well as the stakeholders for smooth implementation of GST. Shouldering the Government's initiatives of growth in India, ICAI has recently submitted a representation providing suggestions on specified issues arising out of recent notification & circulars etc. Further, ICAI has also suggested Simplified User-Friendly Model (SUF) on return filing & enabling of credit to the recipient, wherein it has been suggested that based on the summary details of invoices uploaded by supplier, credit of input be allowed to the buyer without matching concept & requirement of pre-payment of taxes by supplier.

GST Council in its 26th meeting held on 10th March, 2018 in New Delhi has recommended to continue the present system of filing of GSTR 3B and GSTR 1 for another three months i.e., April to June, 2018 till the new return system is finalized, deferment of Reverse charge mechanism under Section 9(4) of the CGST Act till 30th June, 2018 and suspension of provisions for Deduction of tax at source (TDS) under Section 51 of the CGST Act and Collection of tax at source (TCS) under section 52 of the CGST till 30th June, 2018. The GST Council had also recommended the introduction of e-way bill for inter-State movement of goods across the country from 1st April, 2018 which is in place now. Further, e-way bill system in case of intra-State movement of goods will also be introduced w.e.f. a date to be

announced in a phased manner but not later than 1st June, 2018. Besides above, a new GST grievance redressal mechanism was launched whereby GST implementation Committee (GIC) has been tasked with the work of redressing the grievances caused to the taxpayers arising out of IT glitches.

ICAI, being the accounting regulator, in National interest has been proactively supporting the Government in creating awareness and disseminating knowledge of GST among various stakeholders whereby more than 3000 workshops, seminars or conferences on GST have been organised by ICAI wherein more than 2.5 lakh participants have attended and got benefited. Also, 59 batches of Certificate Course have been organised across the country. Our website (itdc@icai.in), too holds offline webcasts on GST, e-learning, webcast series on UAE VAT, regular GST updates, articles, information on upcoming courses, programmes/ seminars, e-publications on GST, E-learning on GST, GST Newsletter etc., for all its registered users.

Let us continue to contribute in our endeavour to make GST law fair, simple and transparent.

With Best Wishes,

CA. Naveen N. D. Gupta
President, ICAI



RECENT AMENDMENTS

E-WAY BILL

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]

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 dated 22nd March, 2018)

Substitution in Rule 138 E-way Rules:

Existing Provision	Revised Provision	Remarks
Sub rule (1) of Rule 138 provides that every registered person who causes movement of goods furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal	Sub rule (1) of Rule 138 provides that every registered person who causes movement of goods furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal	Now, the registered person is also required to furnish additional information relating to goods as may be required on the common portal and a unique number will be generated on the said portal

<p>Proviso to sub rule (3) of Rule 138 provides that where the goods are transported for a distance of less than 10 kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.</p>	<p>Proviso to sub rule (3) of Rule 138 provides that that where the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.</p>	<p>Earlier, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01 where the goods are transported for a distance of less than 10 kilometers. Now, the distance limit has been extended upto fifty kilometers within the State.</p>																								
<p>Proviso to sub-rule (5) of Rule 138 provides that where any transporter transferring goods from one conveyance to another and the goods are transported for a distance of less than 10 kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of the conveyance may not be updated in the away bill.</p>	<p>Proviso to sub-rule (5) of Rule 138 provides that where any transporter transferring goods from one conveyance to another and the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of the conveyance may not be updated in the away bill.</p>	<p>Earlier in case of transferring goods from one conveyance to another the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01 where the goods are transported for a distance of less than 10 kilometers. Now, the distance limit has been extended upto fifty kilometers within the State.</p>																								
<p>Sub-rule (7) of Rule 138 provides that where the consignor or the consignee has not generated Form GST EWB-01 in accordance with the provision of sub rule (1) and value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate the e-way bill in FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods.</p>	<p>Sub-rule (7) of Rule 138 provides that where the consignor or the consignee has not generated the e-way bill in FORM GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods.</p>	<p>Through this substitution it has been provided that inspite of identifying value of goods carrying in the conveyance, aggregate of the consignment value of goods carried in the conveyance need to be identified</p> <p>Further, the transporter is not more required to generate E-way bill in case of transportation of goods by railways, air and vessel.</p>																								
<p>Sub rule (10) of Rule 138 provides that an e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in the table below for the distance the goods have to be transported</p>	<p>Sub rule (10) of Rule 138 provides that an e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in the table below for the distance the goods have to be transported</p>	<p>Through this substitution validity criteria of e-way bill has been amended .</p>																								
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RECENT DEVELOPMENTS- REFUND

Extension in time limit to make an application for refund by specified persons :

The Central Government vide Notification No. 20/2018 – Central Tax dated 28th March, 2018 has increased the time limit within which the specified persons (class of persons who are entitled to claim a refund of taxes paid on notified supplies of goods or services or both received them as notified under section 55 of CGST Act, 2017) shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, from 6 months to 18 months from the last date of the quarter in which such supply was received.

[Notification No. 20/2018 – Central Tax dated 28th March, 2018]

Total Rs 17,616 crore of Refunds issued under GST; 90% of IGST eligible claims have been approved :

In line with commitment of government to liquidate all pending GST refunds, the Central Board of Indirect Taxes and Customs (CBIC) has successfully concluded refund fortnight cum special drive from 15th March, 2018 to 31st March, 2018.

During the period, all field formations of CBIC worked hard to provide refund relief to the exporters. Special refund cells manned by experienced staff were put in place throughout the country. The exporter awareness campaigns using both print media and social media were carried out so that the benefit can be extended to maximum exporters. All field formations were tasked to go extra mile in order to facilitate the sanctioning of refunds. The Circulars, Instructions etc were issued by CBIC to clarify the issues which threw new challenges while sanctioning of refunds.

The success of these efforts is visible in the amount of refunds sanctioned during this period. By the end of 31st March, 2018 another Rs. 4265 crore IGST refund has been sanctioned in the refund fortnight taking the total tally to Rs. 9604 crore. Total 2,73,017 Shipping Bills with the payment of IGST have been filed by the exporters till 31st January, 2018. The number of Shipping Bills disposed of till 31st March, 2018 is 2,28,829 which is about 83% of those Shipping Bills filed till January end. The eligible IGST claims transmitted by GSTN to Customs of the period till 31st January, 2018 are of Rs 10,720 crore, out of which Rs 9,604 crore have been sanctioned which is about 89.6% of those eligible claims transmitted by GSTN.

As regards to ITC refunds, Rs. 1,136 crore has been sanctioned during the special drive making the total figure of ITC sanctioned equal to Rs. 5,510 crore by end of this fiscal. As per the latest available data:

- a. 1,61,325 refund applications have been filed in FORM GST RFD-01A on the common portal, in which an amount of

Rs. 17,471 crore has been claimed. Of these, 60,183 refund applications are in relation to zero rated supplies, in which an amount of Rs. 14,649 crore has been claimed. Taxpayers are required to submit a copy of these RFD-01A application to the jurisdictional tax office, along with all supporting documents.

- b. However, only 26,620 refund applications (out of 1,61,325 applications) have been actually received in the Central or State tax offices. Of these, 17,734 applications have been disposed off.
- c. Of the total amount claimed of Rs. 17,471 crores, an amount of Rs. 8,012 crores has already been sanctioned (Rs. 5,510 crore by Centre and Rs. 2,502 crore by States).

Thus, in all, Rs 9,604 crore (IGST refunds), Rs. 5,510 crore (ITC refund by Centre) and Rs 2,502 crore (ITC refund by States) all totalling to Rs 17,616 crore has been sanctioned.

Apart from this, an amount of Rs 16,680 crore duty drawback has been disbursed to exporters during the period from 1.7.2017 to 31.03.2018. An amount of Rs 1,833.25 crore approx. has been disbursed to exporters against RoSL claims during financial year 2017-18.

The momentum gained during this fortnight would be carried on in future. The CBIC is dedicated to sanction all the legitimate refund claims of exporters. The efforts are being made to resolve those issues which are still pending in consultations with GSTN (Release ID :178264)

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.

(Release ID :177854 dated 22nd March, 2018)

Clarifications on exports related refund issues :

The Central Government vide Circular No. 37/11/2018-GST dated 15th March, 2018 has clarified various issues in relation to processing of claims for refund which are discussed below:

1. Non-availment of drawback:

- It has been clarified that the drawback of Central Tax and Integrated Tax should not have been availed while claiming refund of accumulated ITC on zero rated supplies made without payment of tax.
- A supplier availing of drawback only with respect to basic customs duty shall be eligible for refund of unutilized input tax credit of Central tax / State tax / Union territory tax / Integrated tax / Compensation cess under sub section (3) of section 54.
- It is further clarified that refund of eligible credit on account of State tax shall be available even if the supplier of goods or services or both has availed of drawback in respect of central tax.

Comment: (i) Rule 2(a) of C & CE Drawback Rules, 2017 already excludes GST paid on imported material and this clarification does not lay any new tax position. As such, drawback and zero-rated benefit can co-exist and operate simultaneously;

(ii) Rule 96(10) which places a restriction in case claim of IGST refund also implies that IGST refund can co-exist with drawback of non-GST Central duties (NGCDs). Note that refund of IGST arises when exports are on 'payment of IGST' under section 16(3(b) of IGST Act;

(iii) Further, please note that the restriction in rule 96(10) is to ensure that the domestic Supplier and Exporter/ Deemed-Exporter cannot both claim refund (language appears to place an embargo on refund to exporter);

48/2017-CT	Notifies deemed exports	Supplier to claim refund due to 'rate inversion' in his hands. As no refundable taxes paid by deemed-exporter, no refund remains to be availed
40/2017-CT (R)	Specifies CGST of 0.05% on supply to deemed exports	
41/2017-Int. (R)	Specifies IGST of 0.1% on supply to deemed exports	No refund since no IGST paid
78/2017-Cus.	Exempts IGST on imports	
79/2017-Cus.	Exempts IGST on imports	

(iv) As clarified in para 13.2 of this circular, the GST at 0.5%/0.1% in case of supplies to Merchant Exporters causing 'rate inversion' in the hands of Supplier, while

the Supplier is eligible to refund of relatable ITC, the ME is eligible to ITC of the (nominal rates of) GST paid;

(v) Please also note that NGCDs are neutralized through drawback, all GSTs are neutralized through zero-rated supply as clarified here. It is therefore clear that SGST is refundable vide zero-rated supply facility without being affected by drawback provisions.

2. Amendment through Table 9 of GSTR-1:

In this it has been clarified that if a taxpayer has committed an error while entering the details of an invoice / shipping bill / bill of export in Table 6A or Table 6B of FORM GSTR-1 due to which refund claims are not being processed, so now taxpayer can rectify the same in Table 9 of FORM GSTR-1 in order to get the refund.

Comment: Rectification does not limit the number of times such rectification may be made. It is prudent to ensure that the correct amounts are reflected in Table 9 of GSTR-1 so as to facilitate refund claims.

3. Exports without LUT:

It has been clarified that the facility for export under LUT may be allowed on ex post facto basis taking into accounts the facts and circumstances of each case.

Comment: While an ex post facto filing of LUT greatly undermines the prescriptions of section 16(3)(a) of IGST Act, as it is a beneficial circular, trade may avail this relaxation. This clarification must not be assumed to apply to all 'pre-conditions' of a technical nature in GST. LUTs must nevertheless be filed at least post facto. Failure to file LUT does not avail this procedural relaxation.

4. Exports after specified period:

It has been reported that the exporters have been asked to pay integrated tax where the goods have been exported but not within 3 months from the date of the issue of the invoice for export. In this regard, it is emphasized that exports have been zero rated under the Integrated Goods and Services Tax Act, 2017 (IGST Act) and as long as goods have actually been exported even after a period of three months, payment of integrated tax first and claiming refund at a subsequent date should not be insisted upon.

Therefore, in such cases, the jurisdictional Commissioner may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services.

Comment: This is a significant clarification where, merely because technical aspects are not complied, it does not alter the basic character of the export rendering it a taxable supply. Also, this clarification would not be applicable in case of 'export of services' even if it is an export by way lease of goods.

5. Deficiency memo:

In this connection, a clarification has been provided that once an applicant has been communicated the deficiencies

in respect of a particular application, the applicant shall furnish a fresh refund application after rectification of such deficiencies and once an application has been submitted afresh, pursuant to a deficiency memo, the proper officer will not serve another deficiency memo with respect to the application for the same period, unless the deficiencies pointed out in the original memo remain unrectified, either wholly or partly, or any other substantive deficiency is noticed subsequently.

Comment: Care should be taken to resolve all deficiencies in order for any refund claim or other application to be legally recognized as having been filed. With this clarification that further deficiencies will not be issued, ensuring that all deficiencies are satisfactorily resolved in imperative to preserve validity of refund claims/applications filed.

6. Self-declaration for non-prosecution:

In terms of Notification No. 37/2017-CT dated 4th October, 2017, the facility of export under LUT is available only to those who have not been prosecuted for any offence under the CGST Act or the IGST Act for which a person intending to export under LUT is required to give a self-declaration at the time of submission of LUT that he has not been prosecuted. In this regard it has been clarified that requirement is already satisfied in case of exports under LUT and asking for self-declaration with every refund claim where the exports have been made under LUT is not warranted.

Comment: Self-declaration by an authorized signatory of a legal entity may include a declaration that the affirmations in the declaration are from extant records of the entity and not personal knowledge.

7. Refund of transitional credit:

As per section 54 Refund of unutilized input tax credit availed on inputs and input services during the relevant period is allowed. In this regard it has been clarified that the transitional credit pertains to duties and taxes paid under the existing laws viz., under Central Excise Act, 1944 and Chapter V of the Finance Act, 1994, the same cannot be said to have been availed during the relevant period and thus, cannot be treated as part of 'Net ITC' therefore, not refundable.

Comment: Apprehension of industry that transitional credits will not be reckoned as 'net ITC' for claiming GST refund is not settled. All refunds under earlier laws must be claimed under earlier laws but if those credits have transitioned under section 140(1), except by utilization or rebate claim, no other refund mechanism would be available.

8. Discrepancy between values of GST invoice and shipping bill/bill of export:

In this regard it has been clarified that in case of discrepancy in value of the goods declared in the GST invoice and shipping bill/bill of export than the value in the GST invoice and corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

Comment: This clarification brings to light the practice that was common under Central Excise for 'assessable value' to be different from 'commercial value'. Invoice under section 31 would be for 'assessable value' which can be different from 'commercial value'. Clue can be taken from here for issuing Tax Invoice for exchange and barter transactions and for supplies where consideration is in non-monetary form. Tax Invoice is required in all these cases even though no 'price' may exist.

9. Refund of taxes paid under existing laws:

- Section 142 of the CGST Act provides that refunds of tax/duty paid under the existing law shall be disposed of in accordance with the provisions of the existing law. It is observed that certain taxpayers have applied for such refund claims in FORM GST RFD-01A also. In this regard, it has been advised through this circular to reject such applications and pass a rejection order in FORM GST PMT-03 and communicate the same on the common portal in FORM GST RFD-01B.
- Furthermore, it has been clarified that the amount arising out of refund claims under existing laws shall be refunded in cash only. Also, it should be insured that no refund of the amount of CENVAT credit is granted in case the said amount has been transitioned under GST.

10. Filing frequency of Refunds:

In this regard, it is hereby clarified that the exporter, at his option, may file refund claim for one calendar month/quarter or by clubbing successive calendar months / quarters. The calendar month(s) / quarter(s) for which refund claim has been filed, however, cannot spread across different financial years.

Comment: This is a welcome and much awaited clarification (which may soon be permitted on the portal). In a month where there is no ETO, taxable persons may carry forward ITC in the following quarter and file a consolidated refund for the 'net ITC of quarter' and 'ETO/TTO of quarter'. Care should be taken not to skip any month and maintain refund claims consecutively.

11. BRC / FIRC for export of goods:

In case of export of goods, realization of consideration is not a pre-condition. Therefore it is clarified that, insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

Comment: Another welcome clarification but this applies only in respect of refund claims relating to export of 'goods' and not services.

12. Supplies to Merchant Exporters:

It is clarified that the benefit of supplies at concessional rate is subject to certain conditions and the said benefit is optional and the goods may be procured at the normal applicable tax rate. It is also clarified that the supplier who supplies goods at the concessional rate is also eligible for

refund on account of inverted tax structure as per the provisions of section 54 of the CGST Act.

Comment: It must be ensure that there is no duplication of claims and suitable documentary proof must be provided by the claimant of the refund that the counter party has not claimed refund.

13. Requirement of invoices for processing of claims for refund:

A list of documents required for processing the various categories of refund claims on exports is provided in the Table below. Apart from the documents listed in the Table below, no other documents should be called for from the taxpayers, unless the same are not available with the officers electronically:

Table	
Type of Refund	Documents
Export of Services with payment of tax (Refund of IGST paid on export of services)	<ul style="list-style-type: none"> Copy of FORM RFD-01A filed on common portal Copy of Statement 2 of FORM RFD- 01A Invoices w.r.t. input, input services and capital goods BRC/FIRC for export of services Undertaking / Declaration in FORM RFD-01A
Export (goods or services) without payment of tax (Refund of accumulated ITC of IGST / CGST / SGST / UTGST / Cess)	<ul style="list-style-type: none"> Copy of FORM RFD-01A filed on common portal Copy of Statement 3A of FORM RFD-01A generated on common portal Copy of Statement 3 of FORM RFD-01A Invoices w.r.t. input and input services BRC/FIRC for export of services Undertaking / Declaration in FORM RFD-01A

*These instructions shall apply to exports made on or after 1st July, 2017. It is also advised that refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.

Input Tax Refund to Exporters :

Government has decided to speed up input tax refund to exporters. As per rule 91 of CGST Rules, 2017, ninety per cent of the refund amount claimed shall be granted on a provisional basis within a period not exceeding seven days from the date of acknowledgement of the refund claim. Further, as per section 54(7) of the CGST Act, 2017, the final order for granting refund shall be issued within sixty days from the date of receipt of the complete application. Out of total taxpayers under GST, 64% were also registered under previous tax regime. No specific study has been undertaken on the impact of GST transition.

64% of the total taxpayers registered under GST have transitioned from the previous tax regime to GST as on 2nd March, 2018.

The processing of refund claim is being done after the claimant has filed the GST return and the grant of the refund shall be within sixty days from the date of receipt of the complete application.

(Release ID :177360)

GST Export Refunds :

It has been noticed that at regular intervals, unverified estimates of pending GST refunds on account of exports are published in the print media or put forward by various trade bodies. These figures are highly speculative and mostly inaccurate. It is a fact that while a number of exporters have not been able to get the export refunds so far others have been granted refunds. In order to overcome the causes of the delay in sanctioning of refunds, Government has taken various steps, which includes amendments in the rules, changes in the business procedures of common portal and customs automated system to address the systemic issues. Many of the errors plaguing the claims for refunds are on account of inadequate familiarisation of the exporters with the GST laws and data entry errors in the various GSTRs / forms.

Government has carried out outreach programmes by issuing guidance circulars, advisories, FAQs, advertisements etc. and also provided an alternative procedure involving manual interface where the errors could not be corrected online. The efforts are beginning to show positive results.

So far more than Rs 10, 000 Crore has already been sanctioned by CBEC and States. A standard operating procedure applicable to both Central and State GST has been put in place by virtue of various Circulars and clarifications issued with regard to processing of ITC refund.

GST Council, in its last meeting on 10th March 2018, has directed all States tax authorities to proactively clear refund claims. Exporting community is requested to take benefit of this fortnight and wholeheartedly come forward to get their errors rectified to enable sanction of refunds.

CBEC has taken an initiative to observe a special drive refund sanction fortnight from 15th to 29th March 2018 on an all India scale for which additional staff and infrastructure has been mobilised. Special refund cells manned by experienced staff is being put in place throughout the country.

Government wants to assure the exporting community that it is keen to see that all their eligible refund claims are considered and sanctioned at the earliest.

(Release ID :177554)

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



GST UPDATES ON OTHERS

Return Filing :

The Central Government vide Notification No. 17/2018 – Central Tax; 18/2018 – Central Tax; 19/2018 – Central Tax dated 28th March, 2018, Notification No. 16 /2018 – Central Tax dated 23rd March, 2018 has provided the time limits within which the taxpayers shall furnish the Forms as specified in Column (2) of the table below:

Sl. No (1)	Form (2)	For the Month/Quarter (3)	Last date for filing of return in FORM GSTR-1 (4)	Last date of filing of return in Form 3B (5)
1.	GSTR 1& GSTR-3B by the taxpayers with annual aggregate turnover of more than Rs. 1.5 crore	April, 2018	31st May, 2018	20th May, 2018
		May, 2018	10th June, 2018	20th June, 2018
		June, 2018	10th July, 2018	20th July, 2018
2.	GSTR 1 & GSTR-3B by the taxpayers with annual aggregate turnover upto 1.5 crore	April,2018 –June ,2018	31st July, 2018	April- 20th May, 2018 May- 20th June, 2018 June- 20th July, 2018
3.	GSTR-6 by an Input Service Distributor	July, 2017 to April, 2018	31st May, 2018	

[Notification No. 17/2018 – Central Tax dated 28th March, 2018, Notification No. 18/2018 – Central Tax dated 28th March, 2018; Notification No. 19/2018 – Central Tax dated 28th March, 2018, Notification No. 16 /2018 – Central Tax dated 23rd March, 2018]

GST revenue collections for February 2018 (received in February/March upto 26th March) stand at Rs. 85,174 crore; Rs. 14,945 crore collected as CGST, Rs. 20,456 crore collected as SGST; Rs. 42,456 crores collected as IGST and Rs. 7,317 crores collected as Compensation Cess :

Total Revenue Collection under GST: The last date for filing of GSTR 3B return for the month of February 2018 was 20th March 2018. The total revenue received under GST for the month of February 2018 (received in February/March upto 26th March) has been Rs. 85,174 crores.

1.05 crore taxpayers have been registered under GST so far till 25th March, 2018. Out of these, 18.17 lakh are composition dealers which are required to file returns every quarter and the rest of 86.37 lakh taxpayers are required to file monthly returns.

59.51 lakh GSTR 3B returns have been filed for the month of February, 2018 till 25th March, 2018. This is 69 percent of total taxpayers which are required to file monthly returns.

Revenue of States: Of the Rs. 85,174 crores collected under GST for the month of March, 2018 (upto 26th March), Rs. 14,945 crores have been collected as CGST, Rs. 20,456 crores has been collected as SGST, Rs. 42,456 crores has been collected as IGST and Rs. 7,317 crores has been collected as Compensation cess. Further, Rs. 12,140 crores is being transferred from IGST to CGST account and Rs. 13,424 crores is being transferred from IGST to SGST account by way of settlement of funds on account of cross utilization of IGST credit for payment of CGST and

SGST respectively or due to inter State B2C transactions. Thus, a total amount of Rs. 25,564 crores is being transferred from IGST to CGST/SGST account by way of settlement. Thus, the total collection of CGST and SGST for the month of March, 2018 (upto 26th March) is Rs. 27,085 crores and Rs. 33,880 crores respectively, including transfers by way of settlement.

(Release ID :178040 dated 27th March, 2018)

Late fees for filing of GSTR-5A by OIDAR Service Providers – Notification No. 6/2018 rescinded :

The Central Government vide Notification No. 13/2018 – Central Tax dated 7th March, 2018 has rescinded the Notification No. 6/2018-Central Tax dated – 23.01.2018 (This notification had reduced late fees for filing of GSTR 5A by OIDAR service providers to Rs.25/day (Rs.10/day in case of Nil Returns))

[Notification No. 13/2018 – Central Tax date d 7th March, 2018]

Insertions in Rule 138:

- Proviso to sub rule (1) of Rule 138 has been inserted to provide that the transporter, on an authorization received from the registered person, may furnish information in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal.
- Proviso to sub rule (1) of Rule 138 has been inserted to provide that where the goods to be transported are supplied through an ecommerce operator or a courier agency, on an authorization received from the consignor, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal.
- Explanation 2 has been inserted in sub-rule (1) of Rule 138 to provide that for the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax,

integrated tax and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

- Sub-rule 2A has been inserted to provide that Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01.

Provided that where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery

- Explanation 2 has been inserted in sub-rule (3) of Rule 138 to provide that the e-way bill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished except in the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub-rule (5).
- Sub-rule 5A has been inserted to provide that the consignor or the recipient, who has furnished the information in Part A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B of FORM GST EWB-01 for further movement of the consignment.

Provided that after the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case may be, who has furnished the information in Part A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.

- Proviso to sub-rule (9) of Rule 138 has been inserted to provide that the unique number generated under sub-rule (1) shall be valid for a period of fifteen days for updation of Part B of FORM GST EWB-01.
- Further, clauses (e) to (n) have been inserted to provide various situations where no e-way bill is required to be generated for e.g. where goods being transported are non-taxable goods, goods being transported is treated as no supply under Schedule III of the Act etc.

*This Notification will come into effect from a date to be notified in the official gazette

Comment: Welcome change and ICAI acknowledges active contribution from members in providing these suggestions that have been accepted by Council. Other changes requested are awaited.

[Notification No. 12/2018 dated 7th March, 2018]

No RCM on procurements made from unregistered person till June 30, 2018 :

Earlier, The Central Government vide Notification No. 38/2017 – Central Tax (Rate) dated 13th October, 2017 has provided that

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

Further in order to continue such exemption, the Central Government vide Notifications No. 10/2018 – Central Tax (Rate), 11/2018 – Integrated Tax (Rate) dated 23rd March, 2018 has provided that any registered person procuring taxable goods/services from unregistered suppliers, shall not be required to pay CGST/IGST under reverse charge mechanism U/s 9(4) of CGST Act or u/s 5(4) of IGST Act, 2017 respectively till 30th June, 2018

[Notification No. 10/2018 – Central Tax (Rate) dated 23rd March, 2018; Notification No. 11/2018 – Integrated Tax (Rate) 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, in 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 be 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]

Division of assesses under GSTN :

The division of assesses between Centre and State is decided by the Centre and State Governments. GSTN got an application developed using which Central and State tax authorities have uploaded the data on allocation of migrated taxpayers in the GST System database. As on 8th March, 2018 data on division of 60,89,534 migrated taxpayers has been entered into GST System.

In order to ensure single interface for assesses under GST, the State Level Committees comprising of Chief Commissioner/ Commissioner of Central Tax and Commissioner of State tax have assigned the taxpayers to be under either the Central Tax or State Tax administration based on the turnover of the assesses on a proportionate basis. The assesses having turnover above Rs. 1.5 crores are to be assigned in the ratio of 50:50 between the Centre and the respective State while those having turnover less than Rs. 1.5 Crores have to be assigned in the ratio of 10:90 between the Centre and the respective State.

No choice has been given to assesses to opt for a particular tax administration i.e. Centre and State.

(Release ID :177361)

GST Portal related :

Advisory for change in taxpayer type from SEZ to Regular or Regular to SEZ.

1. Migrated taxpayers who have inadvertently selected themselves as SEZ, can send their requests to become regular on the email: reset.sezflag@gst.gov.in.
2. Taxpayers who have not migrated as SEZ, can send their requests to become SEZ on the email: reset.sezflag@gst.gov.in. Please attach scanned copy of LOA for obtaining registration as SEZ /SEZ developer units.

Comment: Trade may avail this facility swiftly and reciprocate such measures of proactiveness on the part of the Government.

[GSTN]

Suo-moto Cancellation by officials (Model-II States) of registration for Normal Taxpayer

- Facility for Suo Moto Cancellation of registration by the Tax Official, has been enabled on GST Portal.
- This process of cancellation could be initiated by tax official, if registered person has contravened such provisions of the act or the rules made thereunder as may be prescribed or Composition person has not furnished returns for three consecutive tax periods or in other cases as mentioned in Section 29 of the CGST Act, 2017.
- API for Model I States/ CBEC will be released soon.

Taxable services provided by the members of the Joint venture (JV) to the JV and vice versa and inter se between the members of the JV :

The Central Government vide Circular No. 35/9/2018 –GST dated 5th March, 2018 has clarified that levy of GST on services supplied by member of an unincorporated Joint venture to joint venture or other members of joint venture or by joint venture to members will be determined as per circular no. 179/5/2014 of ST dated 29.04,2014 (The circular clarified that that cash calls, sometimes, could be in the nature of advance payments made by members towards taxable services received from joint venture(JV); and that payments made out of cash calls pooled by a JV towards taxable services received from a member or a third party is in the nature of consideration and hence attracts Service Tax).

Taxability of cash calls has been further explained by the following illustrations:

Illustration A: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member purchases machinery for Rs 400 for the JV to be used in oil production.

Illustration B: There are 4 members in the JV including the operating member and each one contributes Rs 100 as part of their share. A total amount of Rs 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.

4.1 Illustration A will not be the subject matter of 'ST/GST' for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

4.2 On the other hand, in Illustration B, the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act, 2017. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio.

Comment: Reference to illustrations very important to identify taxable nature of transaction inter se between JV members. However, RWAs in particular cannot enjoy this relief due to express mention in schedule II.

[Circular No. 35/9/2018 –GST dated 5th March, 2018]

Facility to provide details of amendment, in Form GSTR 4, has now been provided to composition taxpayers :

Composition taxpayers can now file amendment details of advance of reverse charge or advances for which invoice is received in current period in various tables of Form GSTR 4, such as table 5A (for supply), Table 5C (for debit/credit notes), Table 7 (for tax on outward supply made) and Table 8(II).

[GSTN]

Clarifications regarding GST in respect of certain services :

The Central Government vide Circular No.34/08/2018-GST dated 1st March, 2018 has clarified certain issues regarding GST in respect of certain services:

S. No.	Issue	Clarification
1.	Whether activity of bus body building, is a supply of goods or services?	Classification of this composite supply as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case. Comment: It does not clarify in case supply falls under HSN 9988. User discretion advised
2.	Whether retreading of tyres is a supply of goods or services?	Retreading of tyres is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to the composite supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%) Comment: Welcome clarification, helps avoid disputes.

3.	Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?	In Reserve Bank of India FAQ on PSLC, it has been mentioned that PSLC may be construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4th February, 2016. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT. In GST there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates. Comments: Implications are far reaching because 'entitlements' are not 'vested rights'. User discretion advised.
4.	(1) Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST? (2) Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?	(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017-CT (R), Sl. No. 25. The other services such as, - i. Application fee for releasing connection of electricity; ii. Rental Charges against metering equipment; iii. Testing fee for meters/ transformers, capacitors etc.; iv. Labour charges from customers for shifting of meters or shifting of service lines; v. charges for duplicate bill; provided by DISCOMS to consumer are taxable. (2) The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable. Comment: Sale of power is exempt from GST. But services relating to T & D of power is taxable. Application of this circular requires careful consideration of facts even in case of RWAs or Property Management services involving power charges.

[Circular No.34/08/2018-GST dated 1st March, 2018]

GST Council decided to extent tax exemptions for exporters for six months :

Sending a strong positive signal to the exporting community, the GST Council in its 26th meeting decided to extend the available tax exemptions on imported goods for a further 6 months beyond 31.03.2018. Thus, exporters presently availing various export promotion schemes can now continue to avail such exemptions on their imports upto 01.10.2018, by which time an e-Wallet scheme is expected to be in place to continue the benefits in future.

In a related development which would benefit the exporters, the Council reviewed the progress in grant of refunds to exports of both IGST and Input Tax Credit. The Council appreciated that the pace of grant of IGST refund has picked up. Thereafter, the Council directed GSTN to expeditiously forward the balance refund claims to the Customs/Central GST/State GST authorities, as the case may be, for their immediate sanction and disbursal.

It may be recalled that in its meeting held on 06.10.2017 the Council had noted that exporters are experiencing difficulties of cash blockage on account of having to upfront pay GST / IGST on the inputs, raw materials etc. / finished goods imported / procured for purposes of exports. An interim solution was found by re-introducing the pre-GST tax exemptions on such

imports. Additionally, for merchant exporters a special scheme of payment of GST @ 0.1% on their procured goods was introduced. Also, domestic procurement made under Advance Authorization, EPCG and EOU schemes were recognized as 'deemed exports' with flexibility foreither the suppliers or the exporters being able to claim a refund of GST / IGST paid thereon. All these avenues were made available upto 31.03.2018.

The permanent solution agreed to by the Council was to introduce an e-Wallet scheme w.e.f. 01.04.2018. The e-Wallet scheme is basically the creation of electronic e-Wallets, which would be credited with notional or virtual currency by the DGFT. This notional / virtual currency would be used by the exporters to make the payment of GST / IGST on the goods imported / procured by them so their funds are not blocked.

On 16.12.2017, Finance Secretary constituted a Working Group with representatives of Central and State Governments to operationalize the e-Wallet scheme. After reviewing the progress, the Council noted that whereas some preparatory work had been done, more needs to be done to address a large number of technical, legal and administrative issues that have been identified. The Council appreciated that this would require more time. The Council was also unanimous that there should be no disruption that may affect the exports. Accordingly, the Council agreed to:

- (a) Defer the implementation of the e-Wallet scheme by 6 months i.e., upto 01.10.2018; and
- (b) Extend the present dispensation in terms of exemptions etc. which is available up to 31.03.2018, for a further 6 months i.e., upto 01.10.2018.

Release ID :177256

Recommendations made during the 26th meeting of the GST Council :

I. TDS/TCS

The provisions for deduction of tax at source (TDS) under section 51 of the CGST Act and collection of tax at source (TCS) under section 52 of the CGST Act shall remain suspended till 30.06.2018. In the meantime, the modalities of linking State and Central Governments accounting system with GSTN will be worked out so that seamless credit is available to the registered traders whose tax is deducted or collected at source.

II. Grievance Redressal Mechanism

GST implementation Committee (GIC) has been tasked with the work of redressing the grievances caused to the taxpayers arising out of IT glitches.

Release ID :177255

Recommendations regarding Data Analytics made during the 26th meeting of the GST Council :

The GST Council has been apprised of the fact that CBEC and GSTN have started detailed data analytics across a number of data sets available with them. The outcome of preliminary data analysis has revealed interesting insights:

- It has emerged that there is variance between the amount of IGST & Compensation Cess paid by importers at Customs ports and input tax credit of the same claimed in GSTR-3B.
- There are major data gaps between self-declared liability in FORM GSTR-1 and FORM GSTR-3B.

It was deliberated that this information may be further analysed and adequate action may be initiated accordingly.

Release ID :177253

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

Central Goods & Service tax (Second Amendment) Rules, 2018:

The central Government vide Notification No. 12/2018 dated 7th March, 2018 has notified following rules further to amend the Central Goods and Service tax rules, 2017

Particulars	Existing provision	Revised provision
Submission of statement in FORM GST TRAN 2 (FORM for furnishing the details of stock held by registered person availing scheme (60%/40% ITC)	Submits a statement in Form GST TRAN 2 at the end of each of 6 tax periods during which the scheme is in operation.	Submits a statement in Form GST TRAN 2 by 31st march, 2018 or within such period as extended by the commissioner

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:

Month	Collection (Amount in Crores)
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.

(Release ID :177955 dated 23rd March, 2018)

The present system of filing of GSTR 3B is extended for another three months i.e., April to June, 2018 :

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]

GST AUDIT – SOME BASICS

1. Introduction :

- 1.1 The concept of audit by a Chartered Accountant in the area of Indirect Taxes was confined to State Value Added Tax and Central Sales Tax laws of certain States. In Central Excise and Service tax only in case of suspicion of undervaluation or excessive credit special audits were prescribed (not much used) which continue in GST. Therefore, Chartered Accountants engaged in rendering professional services in the areas of State taxes would be familiar with those provisions. The GST law has subsumed several Indirect Tax laws – among others, it subsumed Central Excise, Service Tax, Luxury Tax, Entertainment Tax, VAT/CST, Entry tax laws etc.; certain levies under the Customs laws have also been subsumed into the GST laws.
- 1.2 It would be relevant to note that the skill sets acquired in the understanding of the statutes that have been subsumed into the GST laws would help in better understanding of the GST laws since several provisions of the Central and State enactments have been replicated (fully or partially) in the GST laws – say, for instance, the provisions of Place of Supply of Services, Time of Supply of Services, Valuation of Supply Rules, etc. That being said, one needs to exercise caution in reading and understanding the subtle departures or changes in the statute in comparison with the erstwhile legislations, in which case, one has to enhance the understanding of the fully taken forward provisions. He also needs to unlearn the old laws and learn the GST laws afresh for a complete understanding of the taxing statute.
- 1.3 In terms of Section 2(13) of the CGST Act, 2017, “audit” means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder.
- 1.4 The following three types of audits are envisaged under the GST laws:
 - The first type of audit is to be done by a chartered accountant or a cost accountant;
 - Second type of audit is to be done by the commissioner or any officer authorised by him in terms of Section 65 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and Section 2 of UTGST Act, 2017.
 - The third type of audit is called the Special Audit and is to be conducted under the mandate of Section 66 of CGST Act, 2017 read with Rule 102 of CGST Rules, 2017.

This write-up has not taken into consideration an audit in terms of Section 65 / 66 of the CGST Act, 2017.

- 1.5 While the GST regime emphasizes self-assessment processes, the complexities involved in the new statute make one wary. At this juncture, it is clear to tax professionals that the GST law is not presently simple enough for an assessee to compute his total and taxable turnovers and duly report the same, under the new statute.
- 1.6 The new statute lays substantive emphasis on e-governance. It is presumed that over a period of time, the complexities of the GSTN and the GST law would be subject to several changes / amendments to enhance ease of compliance and transparency.
- 1.7 Nevertheless, errors that cannot be traced by the system are bound to have been committed by registered persons while filing the returns. It is also a fact, that GST law is in the process of being properly interpreted and understood by each of us. The difficulty also arises on account of the fact that there are no precedents on each such issue. One has to overcome these intricate issues by properly understanding the nuances of the law which is still evolving.
- 1.8 The level of tax compliances prevailing and the complex nature of tax laws in our country makes it necessary for audit of records under various laws. Therefore, in order to ensure tax compliance by the assessee, the GST law provides for audit by the tax department and by professionals in certain cases.
- 1.9 Ordinarily, the smaller assessee does not prefer to get their books of account and records audited for indirect tax compliances, when there is no mandatory requirement to do so. However, larger entities who wish to avoid any disputes opt for caution checks. Audit is perceived as a cost rather than as a tool in identifying errors or to optimize the tax incidence though it can actually be a value adder, directly and indirectly.
- 1.10 In the past, certain tax-compliant assessee has been known to voluntarily engage experts to conduct audits under the Excise or Service tax laws. The exercise was undertaken to evaluate compliance, as also to ensure that all benefits lawfully accruing to the assessee are availed by them, in good time. The financial impact on account of indirect taxes is always substantial, and therefore, those assessee who engage tax professionals for a review from the indirect tax perspective would have witnessed a great deal of value addition.

2. Audit under GST laws – Relevant Statutory Provisions :

- 2.1 It is important to understand the relevant audit provisions under the GST laws – such as, whose accounts are to be

audited, who can undertake a GST audit, what are the regulations of ICAI applicable to the GST auditor, the procedure for appointment, scope and preparations required, etc.

- 2.2 Class of registered persons liable for GST Audit: Every registered person whose aggregate turnover during a financial year exceeds the prescribed limit of Rs.2 Crore is liable to get his accounts audited by a Chartered Accountant or a cost accountant. The phrase 'aggregate turnover', as defined in Section 2(6) would mean the all-India PAN-based turnover for the financial year (inclusive of exports, inter-State supplies, exempt supplies, stock transfers, etc. but exclusive of GST and compensation cess).

Note: The appointed date for effective implementation of the provisions of the GST laws is 01.07.2017, i.e., from the second quarter of the financial year 2017-18. Therefore, the very applicability of the threshold limits for audit purposes, whether wholly (Rs.2 Crore) or in proportion, has not been explicitly provided for – Clarification from the Government is awaited.

- 2.3 Filings upon GST Audit: The registered person shall submit a copy of the audited annual accounts, the reconciliation statement (reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement), in FORM GSTR-9C and other documents as may be prescribed, on the GST Common Portal.
- 2.4 The detailed Rules / guidelines regarding the audit procedures and the Audit Report format etc. are yet to be prescribed / notified. In the absence of these, one may only prepare the audit manual / audit program, and cannot finalize scope of the audit in totality. Given that the law is evolving and further changes could be expected (over 300 Notifications + several FAQs, Orders, Circulars, clarifications, flyers, press releases & tweets), making it difficult for businessmen to comply, they would be well-advised to take a lead and commence with periodic reviews to ensure compliance and speed up the first-time audit process.

3. Assessee's whose accounts are to be audited :

- 3.1 The threshold turnover limit of Rs. 2 crore, as referred to in Para 3.2 supra:
- Is the same for assessee's in all the States and UTs. No separate threshold limit is specified for Special Category States. Since each of the State GST Acts also contain the relevant provisions relating to audit, the GST audit shall be State-wise;
 - Is to determine the applicability alone, and separate audits would have to be carried out for each of the distinct registrations under the same PAN.
- 3.2 It would be the duty of a Chartered Accountant / auditor to inform the auditee about the requirement of GST audit,

mandatory documents and other preparations required from the auditee.

4. Audit by a Chartered Accountant or a Cost Accountant:

- 4.1 The Chartered Accountants Act, 1949
- Section 2(1)(b) – a "Chartered Accountant" means a person who is a member of the Institute.
 - Section 2(2) – a member shall be deemed to be in practice if he engages himself, for a consideration, in the specified activities, which includes inter alia audit.
 - Section 6 provides that a member cannot practice without obtaining Certificate of Practice

Thus, only a member of ICAI having a Certificate of Practice (COP), or a firm of Chartered Accountants can take up the GST Audit. Additionally, a Chartered Accountant must bear in mind the following:

- Member in part time practice (including an employee having a COP) is not entitled to perform attest function. (242nd Council Meeting Resolution);
- Member having substantial interest in an assessee cannot take up its audit. (Clause 4 of Part I of the Second Schedule of the Chartered Accountants Act, 1949 ("the CA Act") read with Appendix 9 of CA Regulations 1988);
- Member responsible for writing / maintenance of books of account of an assessee should not take up its audit (Clause (4) of Part I of the Second Schedule to the CA Act);
- Member not to accept the audit of a person to whom he is indebted for more than Rs. 10,000/- (Chapter X of ICAI Guidelines);
- Member not to charge professional fees based on a percentage of profit or which are contingent upon the finding or the result of the professional employment. (Clause 10 of part I of the First Schedule to the CA Act);
- Internal auditor of an assessee cannot be appointed as his tax auditor (281st Council Meeting Resolution).
- In case of joint audits, all the auditors will have to sign the audit report and should issue separate reports where they have different opinions. (Ref SA 299).

- 4.2 The restrictions applicable for appointment of a statutory auditor where fee for other services are more than the statutory audit fee, in case of specified entities, are not applicable GST auditors (Chapter IX of ICAI Guidelines).

- 4.3 An assessee may have GST registrations in more than one State. In such cases, the assessee may appoint a single / multiple auditor(s) for the distinct registrations under the same PAN. It is possible that accounts and records that are kept in different States may be in the local language of that State. In such cases, it is suggested that the auditor should not accept the audit of accounts written in a language which he/his staff do not understand.

5. Audit Engagement

- 5.1 In case of a company, the appointment of the GST auditor

should be made through a resolution of the Board of Directors or by an officer of the company, if so authorized by the Board in this behalf. In case of a partnership firm or proprietary concern, the appointment can be made by a partner or the proprietor or a person authorized by the assessee. The acceptance of appointment should also be communicated in writing to the auditee.

- 5.2 Communication with the previous Auditor – Since the GST audit is applicable for the first time (for the financial year 2017-18), the requirement of communication with the previous auditor prior to accepting the engagement (based on the provisions of the CA Act) does not arise. However, as a healthy practice, the GST auditor may choose to communicate with the previous auditor (under the erstwhile provisions of State Level Laws) so as to get a better insight into the auditee's business practices. Such communication would, however, become mandatory in the subsequent years (where the retiring auditor is a Chartered Accountant).

6. Submission of Audit Report :

- 6.1 Section 35(5) read with Section 44(2) of the CGST Act provides that the following documents shall be furnished electronically by the assessee upon conclusion of the audit:
- Annual Return;
 - Copy of the audited annual accounts;
 - Reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement in FORM GSTR 9C (this FORM is expected to undergo some simplification), duly certified;
 - Such other particulars, as may be prescribed.
- 6.2 A format for the audit report/certificate is yet to be notified. It is not clear as to whether it will be in the nature of an audit report like the statutory audit report or tax audit report, or a certificate like in case of VAT audits. If it is in the nature of a certificate, the responsibility of the GST auditor would be substantially higher.
- 6.3 Certificate Vs. Report – Para 2.2 of the 'Guidance Note on Audit Report and certificates for Special Purpose' issued by the ICAI notes the difference between the term 'certificate' and 'report' as under;
- "A Certificate is a written confirmation of the accuracy of facts stated there in and does not involve any estimate or the opinion.";
 - "A Report, on the other hand, is a formal statement usually made after an enquiry, examination or review of specified matters under report and includes –the reporting auditor's opinion thereon".
- 6.4 Thus, where a certificate is issued, the Chartered Accountant shall be responsible for factual accuracy of what is stated therein. In case of a report, he is responsible for ensuring that the report is based on the factual data, true and fair (or in some cases true and correct) to the best of his belief, knowledge and information furnished to him.
- 6.5 Annual Return: Every registered person [other than an input service distributor (ISD), person required to deduct tax at source (TDS), person required to collect tax at source (TCS), casual taxable person (CTP) and non-resident taxable person] shall furnish an annual return for every financial year electronically in the FORM GSTR-9 (composition suppliers in GSTR-9A and e-commerce operators in FORM GSTR-9B) on or before 31st December following the end of the financial year. Where a registered person is required to get his accounts audited, such annual return shall be furnished along with the audited accounts.
- 6.6 On a plain reading of the relevant provisions, it appears that the annual return is not merely the sum total of the periodic returns filed for the year, but a return reflecting the correct turnovers, data and details as per the provisions of the GST laws, based on the annual accounts of the assessee. Where it is required to be audited, the turnovers appearing in the annual return shall be as per the audited figures.
- 6.7 Reconciliation statement–Rule 80(3) provides that the reconciliation statement shall be furnished in the FORM GSTR-9C (format yet to be notified). The provisions of Section 44(2) require reconciliation of the figures declared in 'return furnished for the financial year' with the 'audited financial statement'. It appears that the return furnished for the financial year refers to the annual return furnished.
- 6.8 During the course of the audit, any discrepancies found shall be corrected / rectified by declaring the correct turnovers in the annual returns. In this regard, it may be noted that the time limit for declaring the details of debit note/credit note and for taking the input tax credit would lapse in September of the following year, whereas the annual return can be furnished by the end of December of the following year. Where any discrepancies are noted during the course of the GST audit post September, it appears that no recourse would be available to the auditee.
- 6.9 There would be a challenge in the reconciliation process in case of large entities having registration in multiple States/UTs, since many transactions on which GST has an impact may not have direct visibility in the financial statements. E.g. Stock transfers, free supplies, distribution of free samples, gifts, transactions with related persons, supplies without consideration, goods sent on approval basis, supplies through agents, etc.
- 6.10 The auditor must note that the reconciliation statement can be prepared only when the audited financial statements are made available. The law, however, does not explicitly provide that the reconciliation must be

prepared between the accounts audited by him and the annual return, in case of registered persons whose books of account have not been audited, say, in the case of non-company assessees.

- 6.11 Such other particulars, as may be prescribed – The Government is yet to prescribe the format of audit report and annexures thereto. It is also not clear as to whether the auditor is required to identify and report the discrepancies month-wise or annually.

7. Challenges for the year 2017-18: There would be many challenges that an auditor as well as an auditee will have to face while carrying out the GST audit for the financial year 2017-18, being the first year of GST audit. Among others, some of them are listed below:

- Multiple audits under indirect tax laws: VAT audits may be required to be carried out for the first quarter and GST audit for the next three quarters;
- Lack of clarity in the GST law, frequent changes in the law, issuance of more than 300+ notifications;
- Failure of the matching concept – whether it would be possible to identify if the supplier has failed to remit taxes to determine eligibility of credits;
- Complex procedural compliance under GST;
- Reliability of the audit software is not tested;
- Absence of / incomplete mandatory records;
- High volume of procedural lapses and non-compliances by the assessees, incorrect documents / documentation procedures;
- Transitional issues (law does address all types of transactions).

8. Consequence of failure to submit the annual return: Section 47(2) provides that in case of failure to submit the annual return within the specified time, a late fee shall be leviable – Computation: Rs. 100 per day during which such failure continues subject to a maximum of a quarter percent of the turnover in the State/UT.

There is no specific penalty prescribed in the GST Law for not getting the accounts audited by a Chartered Accountant or a Cost Accountant. Therefore, in terms of Section 125 of CGST Act, 2017 he shall be subjected to penalty upto 25,000/-. This section deals with general penalty and gets attracted where any person, who contravenes any of the provisions this Act or any rules made thereunder for which no penalty is separately provided.

9. Special attention to transactions not appearing in the financial accounts: There are several transactions which may not appear in the financial accounts and records maintained by the registered persons such as stock transfers, free samples, services received from outside India from related parties, other supplies made without consideration, etc. Due care must be exercised by the auditor to identify such transactions as there may be

no direct reference to these transactions in the financial records.

- 10.** Due to limitation of space, the article incorporated as above is in brief and the detailed article with the following points, may be referred at <http://idtc-icai.s3.amazonaws.com/download/knowledgeShare18-19/GST-Audit-some-basics-28Mar18.pdf>

- Audit Exercise-Advantages
- Preparation for GST Audit
- Accounts and Other records
- GST Audit program
- Understanding the business of the auditee
- Use of Software
- Suggested reference material – ICAI
- Audit Fees
- Some useful tips from a practice perspective

11. Conclusion:

It is but natural, that any auditee would expect that during the course of conduct of an audit, an auditor would adopt the best practices and put the necessary system checks and balances in place. {The updated internal control questionnaire of the IASB could provide some pointers on evaluation of the internal control system in place.} It must be understood that there is no prescribed method or procedure under any statute for the conduct of an audit. An auditor is expected to exercise due and adequate care, prudence, diligence and adopt the best practices considering the complexity of each business and its surrounding circumstances.

Disclaimer

This paper is very brief, given that the rules / forms are yet to be notified. It is written with a view to elicit comments, initiate debates and provide a basic understanding to the reader. It is fondly hoped that this paper would provide to the reader some insight into the manner and method of conduct of an audit. The views expressed herein are the views of the paper writer and cannot be used in framing of opinions or devising methodologies for the purpose of conduct of audits.



TEXTILES & APPARELS

Recent amendments on Textiles

It has been 250 plus days since the implementation of GST and the Government has issued a slew of notifications in the rate as well as non-rate areas. A whopping 26 GST Council Meetings have taken place across India starting from September 22, 2017 to March 10, 2018 i.e. an average of one meeting every 10 days. Initially, with introduction of GST the textile sector had a major surge on exports. However, over period of time exports dipped for almost about ~40%.

We appreciate the Government for such vigorous approach. However due to number of important amendments, professionals need to be updated. Textile industry continues to be the second-largest employment generating sector in India. It offers direct employment to over millions in the country and due changes have to made in law to avoid causing any hardship to the textile sector.

Here is quick snapshot of processes under textile:

Processes involved in textile industry can be broadly classified as:-

Process	Output from the process
Ginning	Man-made Fiber, Cotton, Jute, Silk, Wool
Spinning	Yarn
Weaving/knitting	Fabric
Processing	Processed Fabric
Apparel making	Garment

The above processes were mostly exempted under the pre-GST regime. This had an adverse impact on textile industry since it obstructed the flow of credit in the value chain.

The recent amendments that will be having significant impact on the functioning of the textile sector have summarized below:

Reverse Charge Mechanism (RCM) Applicability on Purchase of Raw Cotton:

[Notification No. 04/2017-CGST dated June 28, 2017 as amended from time to time]

- o While RCM on specified services was a prevalent in the erstwhile service tax regime, the manufacturing industry is well versed with the concept of RCM. However, the GST law has also brought in a new concept of RCM on specified goods u/s Section 9(3) of CGST Act, 2017 and Section 5(3) of IGST Act, 2017.
- o The list of specified goods includes which are liable to RCM when a registered person purchases:
 - a) Silk Yarn from any person who manufactures silk yarn from raw silk or silk worm cocoons
 - b) Raw Cotton from an agriculturist
- o This provision would have a far-reaching implication since the purchase of raw cotton or kapas from an agriculturist is the basic requirement for manufacture of yarn or fabric.

- o It is very important to note that even though RCM has been suspended on procurements from Unregistered Dealers upto June 30, 2018, RCM would continue to be applicable on specified goods and services u/s 9(3) of CGST Act and 5(3) of IGST Act.

Relief to Job workers in the textile industry

[Notification No. 11/2017-June 28, 2017 as amended from time to time]

In terms of the notification, the job work in relation to textile yarns which were man-made fibre (MMF) was leviable to tax @ 18%. However, subsequently, vide amendment to the notification the benefit of reduced rate of 5% has been extended to textiles and textile products falling under Chapter 50 to 63

Refund of Accumulated ITC:

[Notification No. 05/2017-dated June 28, 2017 as amended from time to time]

- o As per Section 54(3) of CGST Act, 2017, refund is allowed only in two situations
 - (i) zero rated supplies without payment of tax
 - (ii) accumulation of credit on account of rate of tax on inputs being higher than the rate of tax on output supplies (commonly referred to as "Inverted Duty Structure") except on notified supplies

a) Inverted Duty Structure:

- o Vide Not. 5/2017 – Central Tax (Rate), the Government has given a list of woven and knitted fabrics on which refund of accumulated ITC would not be available.
- o Vide Not. 44/2017 – Central Tax (Rate), the Government has further added knotted nets, corduroy fabrics and narrow woven fabrics into the above list.

b) Exports:

- o Vide Circular 18/18/2017 – GST, the Government has clarified that while on the above mentioned specified categories of goods [Fabrics], refund of accumulated ITC duty inverted duty structure would not be allowed normally, but in case of export of fabrics / textiles, refund of accumulated ITC would be admissible.
- o Notification No. 40/2017- Central Tax (Rate) seeks to prescribe Central Tax rate of 0.05% on intra-State supply of taxable goods by a registered supplier to a registered recipient for export subject to specified conditions. Similar, notification has also been issued under SGST for state tax rate of 0.05% for intra-state supplies and even under IGST for inter-state supplies also rate of 0.10% has been prescribed.

Treatment of Cut Pieces of Fabric:

- o Vide Circular 13/13/2017 – GST, the Government has clarified that before becoming readymade articles or an apparel, the fabric is cut from bundles and sold in that unstitched state.

- o These fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit.
- o Mere cutting and packing of fabrics into pieces of different lengths from bundles will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract 5% GST rate.

Rationalization of Rate of GST

- o Reduced rate of GST for MMF yarn from 18 to 12 per cent would benefit the spinning and power loom sector. This would help to avoid cost escalation of yarn and facilitate the power loom sector to remain competitive.
- o Vide Notification. 1/2018 – CGST (Rate), the Government has brought the rate of tailoring services to 5%.

Composition Scheme for Textiles

- o A registered person, whose aggregate turnover in the preceding financial year did not exceed one crore rupees, may opt to pay tax under the composition scheme.
- o Rates under Composition Scheme:

S No	Category of Registered Persons	Rate of Tax
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	1%
2	Any other supplier eligible for composition levy under section 10 and the provisions of this Chapter	1% of the turnover of taxable supplies of goods

- o Manufacture has been defined in the CGST Act as follows: “Manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use.
- o Job Work has been specifically treated as Supply of Service as per Scheduled II of the CGST Act.
- o From the above we can conclude that if a registered person engages in any activity which amounts to manufacturing can opt to pay tax under the composition scheme and has to pay tax @ 1%
- o Also, if a trader who engages in the trading of readymade garments can also pay tax @ 1%

Note: A registered person who opts to pay tax under composition scheme has to comply with the other conditions as mentioned under Section 10 of the CGST Act and also under the Composition Rules.

Conclusion

The expected rate of GST would continue to be 12 %. Net off credit maybe still be at 6-9%. To some extent final cost would increase. However, in international markets GST would help exporters once refund is instantaneous. Once a simpler filing methodology is put in place, the cash dealing would significantly reduce. The unorganized industry would not be advantaged. The compliant would find their goods competitive and this protected sector would also join in contributing to tax in addition to employment etc. which was there even today. Stocking pre GST would reduce in this industry. Smaller players whether in the textile processing, job workers, fabric manufacturers or garment units would have to bring in discipline in their recorded purchases and proper accounting which has not been strong in the past.



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

1. Submission of Simplified User Friendly Model (SUF) on return filing & enabling of credit

The Committee has submitted Simplified User Friendly Model (SUF) on return filing & enabling of credit to the Government on 23rd March, 2018 wherein it has been suggested that based on the summary details of invoices uploaded by supplier, credit of input be allowed to the Buyer.

2. Presentation before the GSTN on matching of input in GST Form

Based on the invitation received from Goods and Services Tax Network, representative from ICAI presented its suggestions on the issue of GST return before the "Committee on Return filing" constitute by GST Council Secretariat on 15th February, 2018.

3. Post Budget Memorandum, 2018

The Committee submitted its Post Budget Memorandum, 2018 containing suggestions on Customs Duty to the Government on 5th March, 2018.

4. Representation for clarifying that Input Tax Credit should not be denied to buyer for mistake of seller

The Committee submitted a representation to the Government on 1st March, 2018 for clarifying that Input Tax Credit should not be denied to buyer for mistake of seller

5. Representation for allowing KKC Credit under GST

The Committee submitted a representation to the Government on 5th March, 2018 for allowing to forward KKC Credit available under erstwhile indirect tax regime and set off under GST

6. Assessment Test of Certificate Course on GST

2nd Assessment Test of the Certificate Course on GST held on 17th March, 2018 which is conducted at 36 Centre in electronic mode. Approx. 1500 members appeared in the said test.

7. E-Publication on E-way bill - New

The Committee develop this new publication and released at the annual function of the Institute. It aptly covers legal provisions analysis, frequently asked question and most of the procedural and practical aspects of E -way bill under GST.

8. Training Programme for Officer of Airforce

The Committee has organised three training programme for Officers of Airforce at Delhi from 5th & 6th, 19th to 20th and from 22nd to 23rd February, 2018.

9. Committee's immediate future initiatives

The Committee is working to bring out/organise:

- Handbook on GST for Trader
- Guidance Note on Accounting Treatment of Goods and Services Tax
- Booklet on Exemptions under GST
- Booklet on Transitional provisions
- Short video on GST
- Guidance Note on Audit under GST

10. Workshops, Seminars and Conferences

The Committee has organised following 2 Workshops, Seminars and Conferences since February, 2018:

Sl. No.	Date	Programme	Hosted by Branch /Region
1.	15th & 16th Feb, 2018	Two Day Training Programme on GST	Bangalore Branch of SIRC of ICAI
2.	3rd & 4th March, 2018	Two Days Conference on UAE VAT	Bangalore Branch of SIRC of ICAI

More than 3700 workshops, seminars and conferences on GST have been organised across the country since January 2017 wherein more than 2.9 lakh members have participated.

FORTH COMING EVENTS UNDER THE AEGIS OF INDIRECT TAXES COMMITTEE

20th, 21st, 27th and 28th April, 2018

Place : Bangalore • CPE Hours : 24 Hours

Title of the Seminar : Workshop on Customs and FTP

Contact Details : Bangalore Branch of SIRC of ICAI
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INDIRECT TAXES COMMITTEE (IDTC) OF ICAI
A ONE STOP DESTINATION
FOR INDIRECT TAXES i.e. IDTC
website: www.idtc.icai.org

The Indirect Taxes Committee of ICAI has launched its website viz. www.idtc.icai.org to provide the users a well set platform for sharing and gaining knowledge on indirect taxes and easy accessibility to the Indirect taxes Committee. The Committee works relentlessly towards keeping the members abreast with the latest changes in the Indirect tax laws vide various mediums like, organising programmes, updating study materials, sending regular updates etc.

Main features:

- * Regular Indirect Taxes Updates / GST Updates
- * Knowledge Bank of Indirect Taxes/ GST – Articles, Legal Updates etc.
- * Publications on Excise, Service Tax, VAT, GST etc.- (Available for free download and online ordering)
- * Recordings of Live Webcasts / E-lectures on GST
- * E-learning on Service Tax, Excise, Customs, CST
- * Upcoming events
- * Details of Certificate Courses, Programme, Seminars etc. on GST/ Indirect Taxes
- * Links of related important website
- * Connect with Indirect Taxes as a faculty / author of the publication etc.
- * GST tab newly created on website to provide consolidated GST information.

Your suggestions on the website are also welcome at idtc@icai.in

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