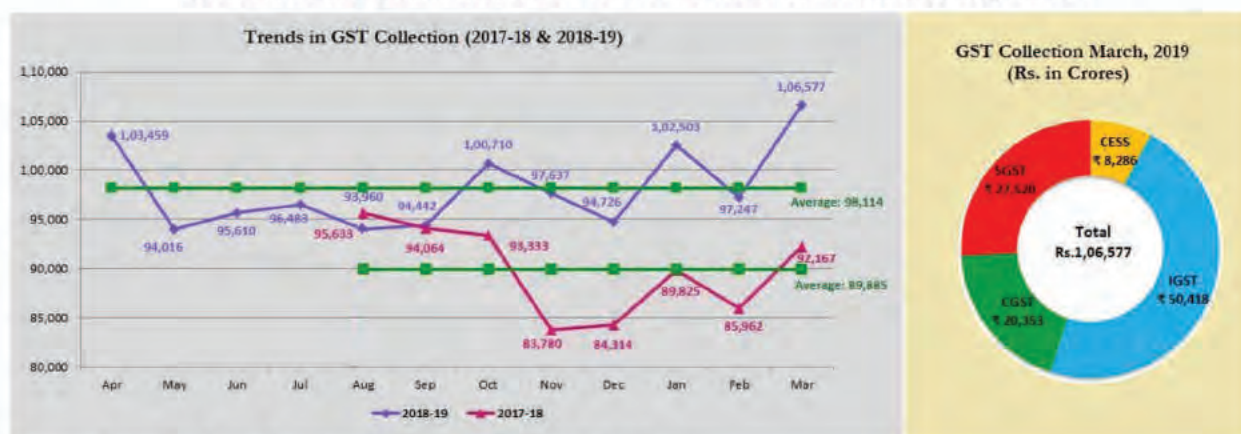


GOODS AND SERVICES TAX

Monthly Highlights of News, Legislative Reforms, Statutory Changes and Judicial Pronouncements Related to GST

March 2019
Vol. 2, Issue 3

GST collections reached Rs. 11.77 lakh crore during the fiscal 2018-19, with a record realisation of Rs. 1.06 lakh crore in March, 2019



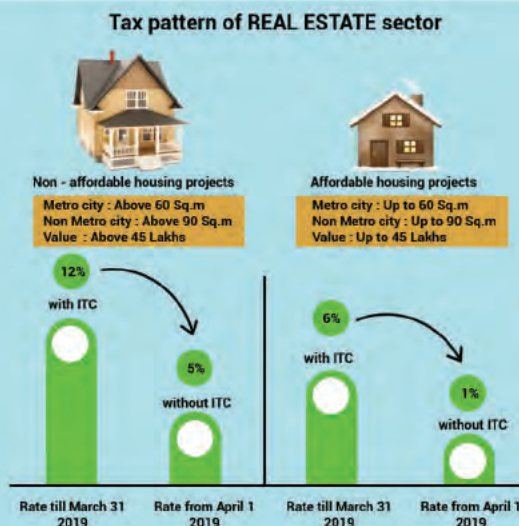
Source: Compiled from the data of Finance Ministry by GIFT

The total GST collected during the year 2018-19 is Rs. 11,77,370 crore, still Rs. 75,000 crore short of the initial annual expectation, but close to the budget estimate (revised). The monthly average of GST revenue during this fiscal is Rs. 98,114 crore which is 9.15% higher than the monthly average of Rs. 89885 crore in 2017-18. These figures indicate that the revenue growth has been picking up in recent months, despite the reduction in various rates. The GST collection in March rose to Rs. 1,06,577 crore from Rs 97,247 crore in previous month. This is the highest monthly collection since the GST regime has rolled out on July 1, 2017. Out of this, CGST is Rs.20,353 crore, SGST is Rs. 27,520 crore, IGST is Rs.50,418 crore and Compensation Cess is Rs.8,286 crore. The figure shows that the collection in March 2019 grew 15.6% compared to the same month in 2018.

Source: PTI, 01/04/2019

GST Council allows builders to opt for the old or new rate

Prior to the GST Council meeting held on February 2019, the GST on real estate sector was 12% with Input Tax Credit (ITC) and 8% with ITC for affordable housing projects. It was revised to 5% without ITC for the former and to 1% without ITC for the latter, which made a lot of the developers unhappy. As a solution the government decided to provide a choice for under construction projects, that the builders have the right to opt for the old or new scheme. However, the developer will have no option but to go with the new GST rate for the projects, which commenced after April 1, 2019.



Source: GST Council, 19/03/2019

SIGNIFICANT CHANGES FROM APRIL 1, 2019

The benefit of composition scheme has been extended to service providers

The composition scheme was not available to the service providers except for the restaurant and catering services till March 31, 2019 but it has been changed and will be available to service providers from April 1, 2019. This scheme shall be available subject to some conditions, such as supplier should be engaged in the supply of goods or services within the same state and the aggregate turnover of supply of service must not exceed Rs. 50 lakhs during the financial year. The benefit of this scheme shall not be available to service providers who are rendering services in multiple states or through e-commerce websites.

Source: Notification No. 02/2019 – Central Tax (Rate), 07/03/2019

Threshold limit for composition scheme have been increased to Rs 1.5 crores

The threshold limit on aggregate turnover in a year to avail of the composition scheme has been increased from Rs. 1 crore to 1.5 crores from April 1, 2019. In respect of North-Eastern States, the threshold limit has been increased from Rs. 50 lakhs to Rs. 75 lakhs. Consequently, the taxable persons can substantially reduce their compliance burden as they would be required to file GST returns on quarterly basis instead of monthly basis.

Source: Notification No. 14/2019 Central Tax, 07/03/2019.

Threshold limit to get registration has been increased to Rs. 40 lakhs

The threshold limit to get mandatory registration has been increased from Rs.20 lakhs to Rs. 40 lakhs if the business entity is engaged in supply of goods i.e., enhancement of threshold limit is not applicable to supply of services. Similarly, the enhanced threshold limit of Rs. 40 lakhs is subject to various conditions such as, the supplier should not be making any inter-state supply, and also he should not be a non-resident taxable person.

Source: Notification No. 10/2019 - Central Tax, 07/03/2019.

KEY CHANGES ON THRESHOLD LIMIT, COMPOSITION SCHEME AND REGISTRATION FROM APRIL 1, 2019

Nature of Supply	Turnover	Registration	Composition Scheme	Rate of Tax
Goods	Up to 40 Lakhs	×	×	×
	Between 40 Lakhs and 1.5 Crore	✓	✓	1% of the turnover
	Above 1.5 crore	✓	×	Normal rates
Restaurant Services	Up to 20 Lakhs	×	×	×
	Between 20 Lakhs and 1.5 crore	✓	✓	5% of the turnover
	Above 1.5 crore	✓	×	Normal rates
Other Services	Up to 20 Lakhs	×	×	×
	Between 20 Lakhs and 50 Lakhs	✓	✓	6% of the turnover
	More than 50 Lakhs	✓	×	Normal rates

Source: Compiled from various sources by GIFT

STATUTORY CHANGES

No GST on free samples, post-sale discounts

Earlier lot of confusions with regard to the applicability of GST on free samples, post-sale discounts etc. Now, the Central Board of Direct Taxes (CBIC) has issued a circular clarifying the levability of GST on sales promotion schemes such as free samples, discounts, buy one get one sales etc. There are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarified on the aspects of taxability, valuation, availability or otherwise of ITC in the hands of the supplier. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration.

Source: Circular No. 92/2019 dated 07/03/2019

No GST on TCS levied on goods

The CBIC has cleared that GST will not be applicable on Tax Collection at Source (TCS) levied on goods by Income Tax department. They also explained that, 'in the light of the representations received from the stakeholders, the matter has been re-examined in consultation with Central Board of Direct Taxes (CBDT). The CBDT has clarified that TCS is not a tax on goods but an interim levy on the possible 'income' arising from the sale of goods by the buyer and to be adjusted against the final income-tax liability of the buyer'. The circular also stated that, 'as per the Section 15(2) of CGST Act, taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS'.

Source: Corrigendum to Circular No. 76/50/2018-GST, dated 07/03/2019

Due dates for filing of GSTR-1 and GSTR 3B have been announced

In case of GSTR-1: If the turnover of registered person is up to Rs. 1.50 crores for the months of April to June, 2019, he shall file GSTR-1 on a quarterly basis before July 31, 2019 (Notification No. 11/2019-Central Tax, dated 07/03/2019), if the turnover exceeds Rs. 1.50 crores he shall file GSTR-1 on a monthly basis before 11th of succeeding month (Notification No. 12/2019-Central Tax, dated 07/03/2019).

In case of GSTR 3B: Form GSTR-3B should be filed on a monthly basis by every taxpayer who is required to file and due date shall be 20th of the succeeding month (Notification No. 13/2019-Central Tax, dated 07/03/2019).

Other Notifications & Circulars

Notification No.10/2019- Central Tax, dated 07/03/2019	To give exemption from registration for any person engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Rs. 40 lakhs.
Notification No.14/2019- Central Tax, dated 07/03/2019	Seeks to supersede notification No. 08/2017 - Central Tax dated 27/06/2017 in order to extend the limit of threshold of aggregate turnover for availing Composition Scheme u/s 10 of the CGST Act, 2017 to Rs. 1.5 crores.

Notification No.15/2019-Central Tax , dated 28/03/2019	Notification to extend the due date for furnishing of FORM GST ITC-04 for the period July 2017 to March 2019 till June 30, 2019 issued.
Notification No.16/2019-Central Tax , dated 29/03/2019	Seeks to make Second Amendment (2019) to CGST Rules.
Notification No.02/2019-Central Tax (Rate) , dated 07/03/2019	To give composition scheme for supplier of services with a tax rate of 6% having annual turnover in preceding year upto Rs. 50 lakhs.
Notification No.03/2019-Central Tax (Rate) , dated 29/03/2019	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council for real estate sector.
Notification No.05/2019-Central Tax (Rate) , dated 29/03/2019	Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by GST Council for real estate sector.
Notification No.06/2019-Central Tax (Rate) , dated 29/03/2019	Seeks to notify certain class of persons by exercising powers conferred under section 148 of CGST Act, 2017.
Notification No.07/2019-Central Tax (Rate) , dated 29/03/2019	Seeks to notify certain services to be taxed under RCM under section 9(4) of CGST Act as recommended by GST Council for real estate sector.
Notification No.08/2019-Central Tax (Rate) , dated 29/03/2019	Seeks to amend notification No. 1/2017- Central Tax (Rate) so as to notify CGST rate of certain goods as recommended by GST Council for real estate sector.
Notification No.09/2019-Central Tax (Rate) , dated 29/03/2019	Seeks to amend notification No. 02/2019- Central Tax (Rate) so as to provide for application of Composition rules to persons opting to pay tax under notification no. 2/2019- Central Tax (Rate).
Circular No.93/2019 , dated 08/03/2019	Seeks to clarify nature of supply of Priority Sector Lending Certificates (PSLC) – regarding
Circular No.94/2019 , dated 28/03/2019	Seeks to clarify certain refund related issues under GST.
Circular No.95/2019 , dated 28/03/2019	Seeks to clarify verification for grant of new registration.
Circular No.96/2019 , dated 28/03/2019	Seeks to clarify issues in respect of transfer of ITC in case of death of sole proprietor.
Order No.02/2019-GST , dated 12/03/2019	Appointment of common authority for the purpose of exercise of powers under sections 73,74, 75 and 76 of the CGST Act, 2017
Order No.3/2019 - Central Tax , dated 08/03/3019	To remove difficulty in implementation of Notification No. 2/2019- Central Tax (Rate)

ANNUAL RETURN: KEY POINTS TO BE NOTED

It is mandatory for every taxpayer registered under GST to file annual return electronically. The annual returns are in GSTR-9 (taxpayer – general category), GSTR-9C (taxpayer – composition category), and GSTR-9A (reconciliation statement certified by auditors). The annual return for the financial year 2017-18 (July 2017 to March 2018) are to be filed before June 30, 2019. The following points should be kept in mind during filing of the annual return:

- Annual return cannot be revised once filed and also any incorrect information can attract tax, interest or/and penalties. Hence it is important that the taxpayer has to ensure accurate declaration of data in the annual return.
- Reconciliation of the books of accounts, tax invoices (including debit/credit notes) during the period July 2017 to March 2018 with the turnover declared in the audited financial statements are to be done accurately.
- Taxpayers should ensure that all the inward supply (including reverse charge details) related to period 2017-18 is accounted in the books of accounts and eligible ITC has been duly availed.
- Any inward supply invoices relating to the period 2017-18 if missed can be claimed till the due date of filing of GSTR3B for March 2019 and eligible ITC can be availed. The taxpayer should also ensure that the suppliers duly upload these details and properly reflected in the GSTR-2A form.
- Any changes /rectification/amendment in the outward supply invoices uploaded during the period 2017-18 can be done till filing of GSTR -1 for March 2019.
- Stock transfer between the units/branches of the entity should be matched with the books of accounts to avoid any discrepancy in the stock-in-hand balance.

KERALA

The details of state specific GST collection for the month of March 2019 are yet to be updated by state GST department. The GST revenue of Kerala was Rs. 1989.91 crore in February 2019 against the Rs. 2157.79 crore of previous month. The total GST collected during this financial year, up to the month of February was Rs. 22088.66 crore of which SGST is Rs. 7478.18 crore, IGST is Rs. 9322.12 crore, adhoc settlement 2734.36 and Rs. 2554 crore received as compensation. The detailed table of GST collection is given below;

Kerala's GST collection during 2018-19 (Rs. in Crore)
(Till February 2019)

Month	SGST	IGST	Adhoc Settlement	Comp	Total
Apr	693.64	802.07			1495.71
May	661.80	785.97		67.00	1514.77
Jun	682.47	879.89	1052.00		2614.36
Jul	658.46	848.44		780.00	2286.90
Aug	527.51	746.21	252.00		1525.72
Sep	525.30	651.9		1033.00	2210.20
Oct	793.50	1068.43	631.04		2492.97
Nov	675.69	1014.34		195.00	1885.03
Dec	719.81	816.86	378.63		1915.30
Jan	816.50	862.29		479.00	2157.79
Feb	723.50	845.72	420.69		1989.91
Total	7478.18	9322.12	2734.36	2554	22088.66

SOURCE: STATE GST DEPARTMENT, KERALA

UPCOMING CHANGES IN E-WAY BILL SYSTEM

- Auto calculation of route distance based on PIN code for generation of EWB:** E-waybill system is being enabled to auto calculate route distance for movement of goods, based on the PIN codes of source and destination locations, given by the user. This system will help to

calculate and display the actual distance between the supplier and recipient addresses. The user is allowed to edit the distance shown, but it will be limited to 10% more than the displayed distance. In case, source PIN and destination PIN are the same; the user can enter up to a maximum of 100 kms only. If the wrong PIN were entered, the system would alert the user. Such e-waybills having invalid PIN codes will be flagged for review to the departmental officers.

- **Blocking of generation of multiple E-way bills on one invoice:** It has been decided not to allow generation of multiple e-way bills based on one invoice, by any party – consignor, consignee or transporter. That is, once e-way bill is generated with an invoice number, then none of the parties - consignor, consignee or transporter, can generate another e-way bill with the same invoice number.
- **Extension of E-way bill in case the consignment is in transit:** The transporters have represented to incorporate provision to extend e-way bill validity, when goods are in transit. Transit means that goods could be on road or in a warehouse. During the extension of validity of the e-way bill, the user will be prompted to answer whether the consignment is in transit or in movement. On selection of 'in transit', the address details of the transit place need to be provided by user. On selection of 'in movement' the system will prompt the user to enter place and vehicle details.
- **Blocking of interstate transactions for composition dealers:** As per the GST Act, the composition taxpayers are not allowed to do interstate supply. Hence user will not be allowed to generate e-way bill for inter-state supply of goods. Also, the composition taxpayers will not be allowed to enter any taxes under CGST or SGST for intrastate transactions. However, on filing of quarterly return, the composition taxpayers need to pay CGST/SGST at the rate applicable to them.

Source: www.gst.gov.in/newsandupdates/read/259, 26/03/2019

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UPDATES ON GSTN PORTAL

- **Annual return forms:** The GST network has been updated with the annual return forms.
- **Viewing and downloading of month-wise comparative table:** This functionality has been provided in returns dash board on the GST Portal to taxpayers under the headings 'Comparison of liability declared and ITC claimed' which provides the following facilities;
 - To view and download a report on tax liability as declared in their form GSTR- 1 and as declared & paid in their return filed in form GSTR 3B.
 - To view information regarding data of ITC as claimed in their form GSTR 3B and as accrued in form GSTR 2A.
 - To view the liability paid due to reverse charge as declared & paid in form GSTR 3B and as accrued in form GSTR 2A, due to uploading of such details by the supplier in form GSTR-1.
 - To view and compare the liability related to exports & SEZ supplies as declared in their form GSTR-3B during the month and liability as declared in their form GSTR-1 (Zero rated supplies) as per table 6A, 6B, 9A, 9B & 9C of the form GSTR 1.
- **Revocation of cancellation of registration:** Facility for applying for revocation of suo-moto cancellation of registration for the persons registered as OIDAR/TDS /TCS/NRTP category has been enabled on GSTN portal.

Source: NACIN weekly updates, March 2019

LEGAL UPDATES

ITC based on fake invoices: Rajasthan HC dismisses WP and imposes cost of Rs.1 Lakh on the petitioner

Bharat Raj Punj Vs Commissioner of CGST

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