

GOODS AND SERVICES TAX

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

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Highest GST collection recorded in April, 2019 at Rs 1.13 lakh crore

GST collection in the first month of the current fiscal, has been the highest since its implementation on July 1, 2017. The revenue mop-up scaled a monthly record of Rs 1,13,865 crore in April, an increase of 10 per cent over the collection in the year-ago period, on the back of anti-evasion steps taken by tax officers. The number of summary sales return GSTR-3B filed for the month of March up to April 30 stood at 72.13 lakh. April 2019 is the second consecutive month where GST collection exceeded Rs 1 lakh crore. In March, the mop-up was Rs 1.06 lakh crore. The government has settled Rs 20,370 crore to CGST and Rs 15,975 crore to SGST from IGST as regular settlement. Furthermore, Rs 12,000 crore has been settled from the balance IGST available with the Centre on provisional basis in the ratio of 50:50 between Centre and States. The total revenue earned by the central government and state governments after regular and provisional settlement in April 2019 is Rs 47,533 crore for CGST and Rs 50,776 crore for SGST.

Source: PTI, 01/05/2019

Is new Tax Pattern effective in reducing the price of Real Estate?

The GST rates for real estate sector have been reduced since April 1, 2019, but the prices of flats and apartments keep on increasing. Due to the withdrawal of ITC facility, GST paid for inward supplies shall form part of cost, resulting in increasing the cost of construction. Furthermore, real estate developers will be compelled to pass on this burden to the ultimate buyers in the form of increased sale price. Materials that form a part of any construction still get taxed at higher rates. Prior to the 33rd GST Council meeting, the GST on real estate sector was 12% with ITC for premium projects and 8% with ITC for affordable housing projects. This was revised to 5% and 1% respectively without ITC. Previously, the builders were eligible for ITC which means, even though the cost for 1 packet of cement was Rs 350, the builder would get it for Rs 275 after deducting the GST rate of 28%. ITC was also available for raw materials such as tiles, building rods, electrical items, plumbing and sanitary items etc. that helped in reducing the price of housing and buildings.

Now, without ITC, the builders have to pay the original cost of raw materials, which will lead to an increase by Rs 400 to Rs 550 per sq.ft. Thus the original cost of the building goes up. For example, take a 1500 square feet flat, for which the cost per sq.ft is Rs 4000, the total cost for the building will be Rs.60 lakhs. Earlier, the customer had to pay a total of Rs 67.2 lakhs including GST at the rate of 12%. Now, without ITC, the price per sq.ft will increase by at least Rs. 400 making total Rs 4400 per sq.ft, which will bring the cost of building up to Rs 66 lakhs with a GST of 5% ie, 3.3 lakhs. The price of the building is thus 69.3 lakhs compared to the 67.2 lakhs before April. Thus, even though the GST rates have been reduced to 5%, the consumer still had to pay more amount. The same goes for buildings that come under affordable housing scheme.

Government set a panel to examine possibilities of introduction for E-invoicing

In order to bring an effective tool to curb tax evasion under the GST regime, the Government is looking at the possibility of introducing electronic invoicing. If the country adopts this system, businesses will likely have to issue invoices, directly via the GST Network, and the data will be available to the authorities right away. For this purpose, the GST Council has set up a Committee of Officers (CoO) on electronic generation of Invoices through GST portal under the convenership of Dr. Rajeev Ranjan, Special Secretary to GST Council. The committee includes GSTN CEO Prakash Kumar, officials from CBIC, Revenue department and state governments. The committee will study the following issues and may submit their report within three weeks;

- (i) To study and examine the electronic tax invoice system of South Korea, Latin America and other relevant countries.
- (ii) To examine and suggest the target taxpayers and threshold limit, either on the basis of the turnover of the registered person or value of invoice, for generating invoice number or capturing invoice through GST portal or any other method.
- (iii) To examine and suggest whether implementing a system of generating electronic invoice number would help to dispensing with the requirement of e-way bill or modification/ simplification of e-way bill or combining both invoice & e-way bill.
- (iv) To examine and suggest integration of e-invoice numbering with different accounting systems and challenges that may be faced in this regard.
- (v) To examine feasibility of gradual progression from generating electronic invoice number to generating electronic tax invoice or generating e-invoice for high thresholds.

(vi) To examine case of return filing through auto population and invoice matching by means of generating electronic invoice number.

(vii) To assess capability of GST portal for generation of invoice numbers and subsequently generation of electronics invoice in future: and

(viii) To suggest measures if any, to incentivize use of electronic invoicing amongst the tax payers.

Source: Office Memorandum issued by GST Council on 22/04/2019

CBDT issued order to share Income Tax payer's details with GSTN

The Central Board of Direct Taxes (CBDT) has issued an order in connection with sharing the details of the assesseees with the Goods and Services Tax Network (GSTN). The move aims at curbing tax evasion of the businesses by cross-checking information available with both the tax bodies. As per the order issued by the CBDT, the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), New Delhi shall be the specified income-tax authority for furnishing information with respect to assesseees to the Nodal Officer, GSTN. According to the order, the data/information to be furnished by the specified income-tax authority shall be, (a) Request based exchange of data, wherein, important financial fields which are captured in the Income Tax Returns (ITRs) such as (i) status of filing of ITR; (ii) turnover; (iii) gross total income, (iv) turnover ratio; (v)GTI range; (vi) turnover range and (vii) any other field, the modalities of which shall be decided by the concerned specified authorities. (b) Spontaneous exchange of data, the modalities of which shall be decided by the concerned specified authorities. (c) Automatic exchange of data, the modalities of which shall be decided by the concerned specified authorities.

Source: F.No.225/105/2019/ITA.II, CBDT, 30/04/2019

STATUTORY CHANGES

Regular GST returns filers can only generate E-way bill from 21st June, 2019.

The CBIC has notified that, the people who fail to file the GST returns properly will not be able to generate E-way bills from 21st June 2019. The notification clarified that the restrictions imposed by Rule 138E i.e. restriction on furnishing of information in PART A of FORM GST EWB-01 have been made effective from the above date. As per the said Rule, no E-way bills facility shall be available for a registered person who has not furnished his GST returns for the last two tax periods. The Jurisdictional Commissioner may allow or reject the E-way bill filing facility upon request of such registered person. However, in case any contradictory decision is provided by the Commissioner of State tax, then such decision shall supersede the decision of Jurisdictional Commissioner.

Source: Notification No. 22/2019-Central Tax, dated 23/04/2019

Due date for filing GST returns by Composition dealers altered

The composition taxpayers shall furnish a statement, every quarter or, as the case may be, part thereof containing the details of payment of self-assessed tax in FORM GST CMP-08 of the CGST Rules, 2017, till the 18th day of the month succeeding such

quarter. "The said persons shall furnish a return for every financial year or, as the case may be, part thereof in FORM GSTR-4 of the CGST Rules, 2017, on or before the 30th day of April following the end of such financial year," the notification said. "The registered persons paying tax by availing the benefit of the said notification, in respect of the period for which he has availed the said benefit, shall be deemed to have complied with the provisions of section 37 and section 39 of the said Act if they have furnished FORM GST CMP-08 and FORM GSTR-4 as provided in para 2 and para 3 above," it said.

Source: Notification No. 21/2019-Central Tax, dated 23/04/2019

CBIC issued a clarification on the utilization of ITC

The issue has arisen on account of order of utilization of Input Tax Credit (ITC) of integrated tax in a particular order, resulting in accumulation of input tax credit for one kind of tax (say State tax) in electronic credit ledger and discharge of liability for the other kind of tax (say Central tax) through electronic cash ledger in certain scenarios. Accordingly, rule 88A was inserted in the CGST Rules, 2017 in the exercise of the powers under Section 49B of the CGST Act vide notification No. 16/2019- Central Tax, dated 29th March 2019. The newly inserted rule 88A in the CGST Rules allows utilization of ITC of Integrated tax towards the payment of Central tax and State tax, or as the case may be, Union territory tax, in any order subject to the condition that the entire ITC on account of Integrated tax is completely exhausted first before the ITC on account of Central tax or State tax can be utilized.

Source: Circular No.98/2019, dated 23/04/2019

Other Notifications & Circulars

Notification No.20/2019- Central Tax, dated 23/04/2019	Central Goods and Services Tax (Third Amendment) Rules, 2019.
Notification No.19/2019- Central Tax, dated 22/04/2019	Seeks to extend the due date for furnishing of returns in FORM GSTR-3B for the Month of March, 2019 for three days (i.e. from 20/04/2019 to 23/04/2019).
Notification No.18/2019- Central Tax, dated 10/04/2019	Seeks to extend the due date for furnishing FORM GSTR-7 for the month of March, 2019 from 10/04/2019 to 12/04/2019.
Notification No.17/2019- Central Tax, dated 10/04/2019	Seeks to extend the due date for furnishing FORM GSTR-1 for taxpayers having aggregate turnover more than Rs. 1.5 crores for the month of March, 2019 from 11/04/2019 to 13/04/2019.
Circular No. 99/2019, dated 13/04/2019	Seeks to clarify the extension in time under sub-section (1) of section 30 of the Act to provide a onetime opportunity to apply for revocation of cancellation of registration on or before the 22nd July, 2019 for the specified class of persons for whom cancellation order has been passed up to 31st March, 2019.
Circular No. 97/2019, dated 05/04/2019	Circular clarifying issues regarding exercise of option to pay tax under notification No. 2/2019- CT(R) dated 07/03/2019 issued.
Order No. 5/2019 -Central Tax, dated 23/04/2019	Seeks to extend the time limit for filing an application for revocation of cancellation of registration for specified taxpayers.

NEWS

Restaurants and small B2C entities under scanner for GST evasion

GST officers are working out a mechanism to deal with non-payment of taxes by large number of small restaurants and B2C entities which are collecting taxes from customers but not depositing the levy with the government. Several consumers have filed complaints through a mobile app -Iris Peridot - that GST was charged by small restaurants but the eatery neither deposited taxes with the government nor filed GST returns. "We have received several complaints from consumers with regard to charging of GST by entities who have not been filing returns. Some customers have also flagged the issue of charging of GST by small local restaurants who otherwise would be under the composition scheme," an official told to PTI.

Source: PTI, 29/04/2019

Next GST Practitioners exam on 14th June, 2019

The National Academy of Customs, Indirect Taxes and Narcotics (NACIN) has scheduled next exam on 14th June, 2019. This exam is mandatory to become a GST practitioner under sub-rule (3) of Rule 83 of the CGST Rules, 2017. Two such examinations have already been conducted on 31/10/2018 and 17/12/2018. The Registration Portal for the exam scheduled on 14/06/2019 will be activated on 21st May 2019 and will remain open up to 4th June 2019.

Source: NACIN

GST Network: Performance so far

The GST network was set up primarily to provide IT infrastructure and services to the central and state governments, taxpayers and other stakeholders. As per the data available with GSTN as on 15th April, 2019, a total of 1.21 crore businesses have been registered so far. It started with 60 lakh taxpayers on 1st July 2017 and now grown to 1.21 croretax-payers. Around 60.62 crore e-way bills have been generated so far since April, 2019. A total of 26.52 crore tax returns have been processed, total number of payment transactions raised to 8.59 crore, 500 crore invoices uploaded, and 15.04 lakh crore payments processed through GST portal. The maximum number of returns filed per day is 18 lakh and the maximum number of payment transactions in a day is 9 lakh. The portal is accessible to tax authorities for tracking down every transaction, while taxpayers have the ability to connect for their tax returns.



Source: GST System Statistics as on 29th April, 2019

GST: Karnataka to physically verify taxpayers

In a bid to curb tax evasion, the Karnataka Commercial Tax Department have decided to start verification of registered GST dealers manually to determine the genuineness of the documents. The move may initiate a beginning of 'inspector raj' in the GST regime. Reportedly, this directive could set a precedent and other states may follow. Some of the sectors in priority include arecanut, cashew, rubber, auto parts, electrical goods, electronic goods, edible oil, readymade garments, timber, cement, and construction material. According to sources, entities that have generated e-way bills despite being non-filer of returns are most likely to be verified. A special IT module has also been developed for this purpose.

Source: Economic times, 05/04/2019

KERALA

Kerala implements Amnesty scheme to settle pre-GST arrears

In concurrence to the announcement made in the Kerala Finance Bill 2019, the Government has implemented the Amnesty scheme. It aims to enable the assessee to settle the tax disputes during the pre-GST scenario by waiving interest and penalty. **According to the latest budget, approximately Rs.6200 crore is locked before various appellate authorities and courts in Kerala.** Under the amnesty scheme, all arrears under the KGST Act, 1963, relating to the period up to 31/03/2018 can be settled. Arrears under KVAT Act, 2003, Central Sales Tax Act, 1956, Kerala Tax on Luxuries Act, 1976 and Kerala Surcharge on Taxes Act, 1957 relating to the period up to 30/06/2017 and Kerala Agricultural Income Tax Act, 1991 (up to 31/03/2017) can also be settled under this scheme. Under the amnesty scheme, the assessee only need to pay the principal amount in full, entire interest and penalty shall be waived. In the case of arrears under KGST from 01/04/2005 to 31/03/2018 principal and interest need to be paid, penalty shall be waived.

Since the amnesty scheme provides for outright settlement of arrears, the assessee shall withdraw all the cases pending before any appellate authority, tribunal or courts unconditionally. The assessing authority shall confirm that such cases are formally withdrawn within 60 days, and in case such withdrawal has not been effected, the permission given under this scheme shall be revoked after giving notice to the assessee. The cases in which appeals filed by the State, however, shall be continued and hence the assessee shall not be eligible for availing provisions of this scheme.

Source: Circular No.3/2019 dated 01/04/2019

Kerala's GST Collection reached Rs. 23925 crore during the fiscal 2018-19

In March, 2019 the GST revenue was Rs. 1837 crore as against Rs. 1990 crore during previous month February, 2019. The total GST collected during this financial year 2018-19 is Rs. 23925, crore with monthly average of Rs. 1993 crore. Out of the total collection, SGST is Rs.8,271crore, IGST is Rs.10,114 crore, Adhoc settlementRs. 2,608 and received compensation of Rs. 2554 crore.

E-WAY BILL SYSTEM UPDATION

Government has updated GST portal with changes in the e-way bill system, including auto calculation of distance based on PIN codes for generation of e-way bill and blocking generation of multiple bills on one invoice, as it seeks to crack down on GST evaders. Touted as an anti-evasion tool, the e-way bill was rolled out on April 1, 2018, for moving goods worth over Rs. 50,000 from one state to another. The same for intra or within the state movement was rolled out in a phased manner from April 15.

E-WAY BILL SYSTEM SO FAR

No. of e-way bills generated	5577 Lakhs
No. of inter-state e-way bills	2487 Lakhs
No. of intra-state e-way bills	3090 Lakhs
No. of e-way bills verified	172 Lakhs
No. of taxpayers registered	28.89 Lakhs
No. of transporters enrolled	0.41 Lakhs

Source : gstrn, as on 17/04/2019

With instances of malpractices in e-way bill generation getting detected, the revenue department decided to rework the system for generation of e-way bill. The new enhanced system would be allowed to enter the actual distance as per the movement of goods, which will be limited to 10 per cent more than the auto calculated distance displayed, according to the e-way bill portal.

Besides, the government has decided not to permit generation of multiple e-way bills based on one invoice. This means, if the e-way bill is generated once with a particular invoice number, then none of the parties - consignor, consignee or transporter - can generate another e-way bill with the same invoice number. The system would also generate a report for users on the list of e-way bills about to expire which help the user to analyse the data and ensure that the goods reach the destination within the valid time period.

Source : PTI,25/04/2019

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UPDATES ON GSTN PORTAL

Return - Offline Utility for filing of Form GSTR-9A

Offline utility of Form GSTR-9A is made available in the download section of GST Portal for the composition taxpayers. Excel based offline utility is designed to help composition taxpayers to prepare their Form GSTR-9A offline.

Ref: Section 44(1) of the CGST Act, 2017 & Rule 80(1) of the CGST Rules, 2017

Return - Online filing of Form GSTR-9C & its Offline Utility

Facility for online filing of Form GSTR-9C, Audited Annual Accounts and Reconciliation Statement, has been made available on GST Portal to the taxpayers. Offline utility of Form GSTR-9C is also made available in the download section of GST Portal for the taxpayers. Excel based offline utility is designed to help taxpayers to prepare their Form GSTR-9C offline.

Ref: Section 35(5) & 44(2) of the CGST Act, 2017 & Rule 80(3) of the CGST Rules, 2017

LEGAL UPDATES

Telangana High Court upholds arrest by GST officials

The Writ Petition was filed by Seven Companies Infinity Metals Products India Limited, Sujana Universal Industries Limited, Hindustan Ispat Private Limited, EBC Bearings India Limited, V.S. Ferros Enterprises Private Limited, Hyderabad Steels, MSR India Limited and Suyatimpex Private Limited. The Petitioners challenged the issuance of summons and searches conducted by the Hyderabad GST officials. While upholding the arrest, a Division Bench rejected the technical objections raised by the petitioners over the powers and reasons of the GST officials to arrest them. The bench observed that despite the petitions being maintainable and incongruities within some provisions of the Central Goods and Service Tax (CGST) Act-2017, the relief could not be granted to the companies due to the 'special circumstances' of the case.

Ref: WP Nos.4764, 4769, 4892, 5074, 5130, 5329, 6952 and 7583 of 2019

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