

# GOODS AND SERVICES TAX

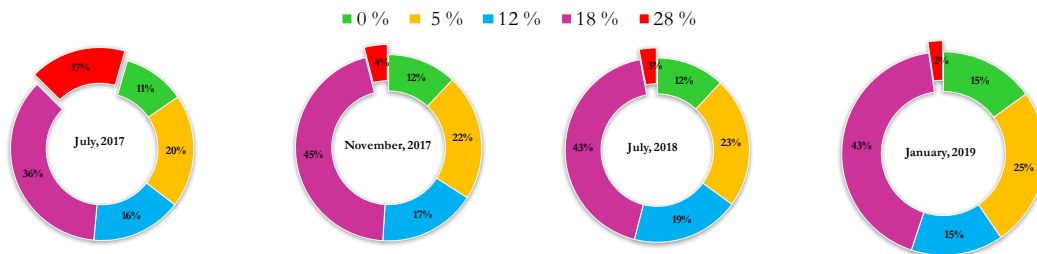
Monthly Highlights of News, Legislative Reforms, Statutory Changes and Judicial Pronouncements Related to GST

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## The Evolving Structure of GST Rates

Under GST regime, the government has made tax cuts on 475 goods and services so far. This was in line with the long-term objective to gradually reduce the scope of the 28 percent category and merge the 18 percent and 12 percent categories. The first big step to reduce tax rates was initiated in November 2017, when tax rates were cut on 177 items, but major tax reduction came in the months of July 2018 and January 2019. A snapshot of the various commodities across tax slabs given below shows the shift towards lower GST rates. The highest slab of 28% has become substantially leaner.

Share of commodities in various slabs



Source: Computed from various sources by GIFT

This is the third time in current fiscal that revenues from GST have crossed Rs 1 lakh crore mark. The total gross GST revenue collected in January 2019 is Rs 1,02,503 crore of which Central GST is Rs 17,763 crore, State GST (SGST) is Rs 24,826 crore, Integrated GST (IGST) is Rs 51,225 crore and Cess is Rs 8,690 crore. The government has settled Rs 18,344 crore to CGST and Rs 14,677 crore to SGST from IGST as regular settlement.

## 32nd GST COUNCIL: HIGHLIGHTS

**Registration:** Basic exemption limit for suppliers of goods will be increased from Rs 20 lakhs to Rs 40 lakhs. In case of special category States, the limit for registration is currently at Rs 10 lakhs. This limit in case of supply of goods is increased up to Rs 20 lakhs and such States have been given an option to either choose Rs 40 lakhs or Rs 20 lakhs threshold limit.

**GST practitioner exam:** The last date for passing the GST practitioner examination has been extended till 31.12.2019 for those who have enrolled under rule 83(1)(b) i.e. who were sales tax practitioner or tax return preparer under the existing law for a period of not less than five years.

**Kerala levy 1% cess for two years:** The state is permitted to impose 1 per cent disaster cess on intra-state sales for a period of two years to meet the cost of reconstruction. In this regard, the State has decided to impose it on all goods and services coming within the tax bracket of 12%, 18% and 28%.

### Advantages:

- State can mobilize additional revenue of Rs. 600 crore/ year
- State can decide the items on which the cess can be imposed
- Applicable only for intra-state transactions

### Disadvantages:

- It dilutes the 'One Nation One Tax' principle
- Price will increase, double burden to the people already affected by flood
- Need to modify IT platform for incorporating this cess

## Ministerial Panels will examine various issues

**Real Estate:** The Government had set up a GoM for examining the proposal to cut GST rate on real estate sector to 5 per cent from the existing 12 per cent while blocking input tax credit for buildings. The panel will consider the possibilities of 'composition scheme' for the real estate sector under GST and recommend an appropriate mechanism for the same. The panel will be headed by Gujarat Deputy Chief Minister Nitin Patel and will also have the Finance Ministers of Maharashtra, Karnataka, Kerala, Punjab, Uttar Pradesh and Goa as members.

**Lottery:** The GST Council has constituted an eight-member GoM under Maharashtra Finance Minister Sudhir Mungantiwar to examine the possibilities of imposing uniform tax rate on lottery. Finance Minister of West Bengal, Kerala, Assam, Punjab, Goa, Karnataka and, Arunachal are the members of the panel. Currently, state operated lottery attracts 12 per cent GST while privately operated lottery attracts 28 per cent GST. The GoM will examine the issue and suggest whether a uniform tax rate should be imposed on lotteries or the current differential tax rate system be continued.

**Revenue Shortfall:** GST Council decided to constitute a panel under the chairmanship of Bihar deputy chief minister Sushil Modi to look into revenue shortfall being faced by the states post implementation of the GST. As per the terms of reference set by the GST Council, the GoM was given the option

to rope in experts from National Institute of Public Finance & Policy, and National Council for Applied Economic Research to assist them in analysis of states' revenues.

**■ Composition Scheme: A Ready Reference**

Under GST regime, composition scheme is a convenient way for the small manufactures, traders, restaurants and service providers to minimise their tax compliance, paying tax at a fixed rate based on their annual turnover.

**Advantages**

- Minimum compliance cost in terms of return filing, maintaining books of accounts etc.
- Low tax burden to the customers
- High cash liquidity, the tax rates are much lower compared to the normal GST rates

**Disadvantages**

- Dealer cannot carry out inter-state transactions
- No Input Tax Credit available to composition dealers
- Not eligible to supply goods through an e-commerce portal

**GST rates for a composition dealer**

Type of Business	Turnover limit	CGST	SGST	Total
Manufacturer	Rs.1.5 Crore	0.5%	0.5%	1%
Traders	Rs.1.5 Crore	0.5%	0.5%	1%
Restaurants	Rs.1.5 Crore	2.5%	2.5%	5%
Services (wef:1/4/19)	Rs.50 Lakhs	3%	3%	6%

Source: Compiled from various sources

**GST NEWS**

**■ High usage of ITC to set off GST liability**

The issue of high ITC was flagged at the meeting of the GoM to examine the reasons for revenue shortfall being faced by a large number of states. According to sources, availing ITC ideally should not result in loss of revenue but there could be possibility of misuse of the provision by unscrupulous businesses by generating fake invoices just to claim tax credit. During the meeting of the GoM, it was pointed out that as much as 80 per cent of the total GST liability is being settled by ITC and only 20 per cent is deposited as cash.

Source: PTI, 28/01/2019

**■ Cabinet clears setting up of National Bench of the GST Appellate Tribunal**

The Cabinet approved the creation of National Bench of the GST Appellate Tribunal (GSTAT). GST Appellate Tribunal is the forum of second appeal in GST laws and the first common forum of dispute resolution between Centre and States. The appeals against the orders in first appeals issued by the Appellate Authorities under the Central and State GST Acts lie before the GST Appellate Tribunal, which is common under the Central as well as State GST Acts. Being a common forum, GST Appellate Tribunal will ensure that there is uniformity in redressal of disputes arising under GST, and therefore, in implementation of GST across the country.

Source: NACIN, Weekly Update, 26/01/2019

**■ Cabinet approves setting up of a centralised GST Appellate Authority**

The Cabinet approved setting up of a centralised Appellate Authority for Advance Ruling (AAAR) that would decide on cases where there are divergent orders at the state level. The centralised authority as an appellate body will only take up cases wherein the Authority for Advance Ruling (AAR) of two states have passed divergent orders. The setting up of a centralised AAAR would require amendments to the GST Acts.

Source: PTI, 23/01/2019

**■ No E-way bill if GST returns not filed for 6 months**

Non-filers of GST returns for 6 consecutive months will soon be barred from generating e-way bills for movement of goods. The GSTN is developing such IT system for business who have not filed returns for two straight return filing cycle (6 months), that would be barred from generating e-way bills. This move would help check GST evasion.

Source: PTI, 20/01/2019

**NOTIFICATIONS**

Notification No. 01/2019 - Customs, 10/01/2019	Seeks to remove pre-import condition and include specified deemed export supplies for exemption from integrated tax and Compensation cess for materials imported.
Notification No. 04/2019 - Customs, 15/01/2019	Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver - reg.
Notification No. 07/2019 - Central Tax, 31/01/2019	Form GSTR 7 (TDS Return Filing Under GST) Due Date extended to 28th February 2019 from earlier due date of 31st January, 2019.
Notification No. 06/2019 - Central Tax, 29/01/2019	Seeks to amend notification No. 65/2017-Central Tax dated 15.11.2017 in view of bringing into effect the amendments in the GST Acts.
Notification No. 05/2019 - Central Tax, 29/01/2019	Seeks to amend notification No. 8/2017-Central Tax dated 27.06.2017 so as to align the rates for Composition Scheme with CGST Rules, 2017.
Notification No. 04/2019 - Central Tax, 29/01/2019	Seeks to amend notification No. 2/2017-Central Tax dated 19.06.2017 so as to define jurisdiction of Joint Commissioner (Appeals).
Notification No. 03/2019 - Central Tax, 29/01/2019	Seeks to amend the CGST Rules, 2017 by Central Goods and Services Tax (Amendment) Rules, 2019 notified.
Notification No. 02/2019 - Central Tax, 29/01/2019	Notifies applicability of CGST (Amendment) Act, 2018 with effect from 1st day of February, 2019.
Notification No. 1/2019-Central Tax, 15/01/2019	Seeks to amend notification No. 48/2017 to amend the meaning of Advance Authorisation.
Notification No. 01/2019- Central Tax (Rate), 29/01/2019	Seeks to rescind notification No. 8/2017-Central Tax (Rate) dated 28.06.2017 in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Acts.
Notification No. 01/2019-Integrated Tax, 29/01/2019	Seeks to bring into force the IGST (Amendment) Act, 2018.

Notification No. 02/2019-Integrated Tax, 29/01/2019	Seeks to amend notification No. 7/2017-Integrated Tax dated 14.09.2017 to align with the amended Annexure to Rule 138(14) of the CGST Rules, 2017.
Notification No. 03/2019-Integrated Tax, 29/01/2019	Seeks to amend notification No. 10/2017-Integrated Tax dated 13.10.2017 in view of bringing into effect the amendments (to align Special Category States with the explanation in section 22 of CGST Act, 2017) in the GST Acts
Notification No. 01/2019-Integrated Tax (Rate), 29/01/2019	Seeks to rescind notification No. 32/2017-Central Tax (Rate) dated 13.10.2017 in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Acts.
Notification No. 01/2019-Union Territory Tax, 29/01/2019	Seeks to bring into force the UTGST (Amendment) Act, 2018.
Notification No. 01/2019-Union Territory Tax (Rate), 29/01/2019	Seeks to rescind notification No. 8/2017-Union Territory Tax (Rate) dated 28.06.2017 in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Acts.
Notification No. 01/2019-Compensation Cess, 29/01/2019	Seeks to bring into force the GST (Compensation to States) Amendment Act, 2018.

Source: www.cbic.gov.in

## KERALA

### GST revenue to be raised by 30 per cent in 2019-20: Kerala FM

Dr. T.M Thomas Isaac in his Budget Speech 2019-20 described the fiscal situation of Kerala is not good. The economic impact of the devastating floods coupled with poor implementation of the GST and internal leakages in the VAT collection has affected the state's fiscal health. In this context, the Government aims to raise GST revenue by 30% in 2019-20 compared to the current 10 per cent growth.

In December, 2018 the GST revenue was Rs. 1915.30 crore as against Rs. 1885.03 crore during previous month November, 2018. The total GST collected during this financial year (between April-December) is Rs. 17940.96 crore. Out of this, SGST is Rs. 5938.18 crore, IGST is Rs. 7614.11 crore, Adhoc settlement 2313.67 and received compensation of Rs. 2075 crore. The details of GST collection during 2018-19 are given below;

Month	SGST	IGST	Adhoc settlement	Compensation	Total
April	693.64	802.07			1495.71
May	661.64	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	651.90	1033.06	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
<b>Total</b>	<b>5938.18</b>	<b>7614.11</b>	<b>2313.67</b>	<b>2075.00</b>	<b>17940.96</b>

Source: www.keralataxes.gov.in

## PARLIAMENT

### Will the Minister of FINANCE be pleased to state:

(a) Whether the Government has not failed to pay input tax credit refunds under the Goods and Services Tax (GST) framework to the exporters and if so, the details thereof;

(b) The steps being taken by the Government to hold the State Governments accountable for delay in payment of refunds; and

(c) Whether the Government is mandated to pay interests for delays in payment of refunds and if so, the details thereof?

### MINISTER OF STATE FOR FINANCE

(a) The Government has not failed to pay input tax credit refunds to the exporters. The overall disposal rate of sanction of refund of unutilized input tax credit to the various taxpayers, including exporters, under GST is greater than 95% so far.

(b) Circular No. 79/53/2018-GST dated 31.12.2018 has been issued by the Central Government reiterating the legal provisions contained in section 56 of the Central Goods and Services Tax Act, 2017 (CGST Act for short) and stating that all tax authorities are advised to issue the final sanction orders within 45 days of the date of generation of Acknowledgment Receipt Number (ARN), so that the disbursement is completed within 60 days by both Central and State Tax Authorities for CGST / IGST / UTGST / Compensation Cess and SGST respectively. The pendency of refund claims is being constantly monitored by the senior officers and appropriate action, wherever necessary, is initiated.

(c) Yes Madam. Section 56 of the CGST Act states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of the refund application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund of such tax shall have to be paid to the claimant.

Source: Unstarred Question No. 4003, 04/01/2019

## JUDICIAL PRONOUNCEMENTS

### Kerala HC stays collection of GST on TCS

The Petitioner PSN Automobiles Private Ltd, has submitted that the amount of 1% the dealer collects from the purchaser of a car worth more than ten lakhs, under Section 206C (1F) of the Income Tax Act, cannot be treated as an integral part of the value of the goods and services supplied by the petitioner. According to him, as the dealer of the motor vehicle, acts only as an agent for the State to collect the income tax under Section 206C(1F). And that amount will eventually go to the vehicle purchaser's credit. Earlier CBIC has clarified vide Circular No. 76/50/2018-GST dated 31st December, 2018 that 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. Against this clarification present writ been filed and Kerala High Court has put on hold the computation of GST on TCS amount till disposal of the petition.

Source: WP(C) No.680/2019, 17/01/2019

## NEW FUNCTIONALITY ON GST PORTAL

### Assessment and Adjudication:

(i) Rectification of mistake in the order by the Adjudicating Authority: Errors or mistakes apparent on face of record can be rectified by the Adjudicating Authority, on basis of suo moto to rectification or upon receipt of an application from taxpayer, within a period of six months from the date of issue of such order. In these type of cases, an application for Rectification can be filed by the taxpayer on GST portal within 3 months from date of issue of order.

(ii) Furnishing details of security/ surety: Taxpayer can now furnish details of security/ surety in prescribed form on GST Portal. After submitting the form online, they are required to furnish hard copy of original bank guarantee/ surety/ security to the proper officer.

### Refund Module

As of now, taxpayers filing Form GSTR 1 quarterly, can file refund application on quarterly basis only. The system validates whether the tax payer has filed Form GSTR-1 and Form GSTR-3B for the corresponding period or not. Now, the restriction for applying refund on quarterly basis for quarterly GSTR 1 filers is removed, so that these tax payer would also be able to file refund application on monthly basis. This implies that the taxpayer can file monthly refund application, but Form GSTR 1 for the quarter must be filed.

### Appeal

Tax payers can now select a GST Practitioner, to prepare an appeal in Form GST APL-01, to be filed by them. The GSTP can save draft of the appeal application form. The taxpayer and GSTP would be able to continue on the saved drafts of the appeal application form, saved by either of them.

### Appeal

An application, for rectification of an order, passed by an appellate authority, by a taxpayer, has been made available on GST Portal.

### Composition Scheme

If proceedings for compulsory withdrawal from Composition Scheme are initiated by a Tax Official, against a composition taxpayer, then composition taxpayer can now reply to such SCN issued on GST Portal.

### Payment Module:

Now up to 6 preferred banks will be shown to a taxpayer while making e-Payment on GST Portal. When Taxpayer makes the first payment from GST portal, the selected bank will automatically get updated in the Preferred Banks list. Every time Taxpayer will make payment from a different bank it will be updated in the Preferred Banks list. In case, a Taxpayer already having 6 banks in its preferred banks list, makes a payment with 7th bank, then that 7th bank will be added in the preferred banks and the least used bank will be removed from the list. Taxpayer can delete any of the preferred banks at any point of time.

### Advance Ruling

(i) Appeal against Advance Ruling: Once an advance ruling is issued by an authority and if the applicant or the taxpayer is aggrieved by such an advance ruling, then they can file an appeal before the appellate authority.

(ii) Rectification of mistake in the order by the AAR or AAAR: If there is any mistake in the order passed under Section 98 or 101, by the authority or the appellate authority, which is apparent from the record, the authority or the appellate authority can pass a rectification order, for rectifying such mistake, within a period of six months from the date of the order. The applicant/appellant/taxpayer can make an application to the authority/ appellate authority for rectification of the mistake.

### Over the Counter (OTC) Payment

Now, every taxpayer can create an OTC challan of more than Rs 10,000, in a given Tax Period, on GST Portal, in both pre-login & post login modes (System check to limit OTC challan amount has been removed).

Source: NACIN Weekly updates

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