

GOODS AND SERVICES TAX

Monthly highlights of News, Legislative Reforms, Statutory Changes and Judicial Pronouncements related to GST

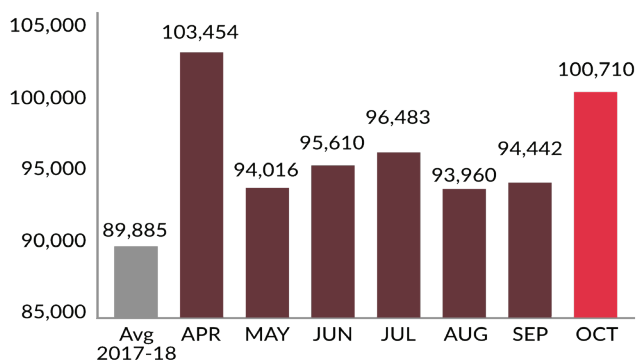
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GST Council: Towards the right direction

The GST Council, under the chairmanship of Shri Arun Jaitley, Hon'ble Minister for Finance, has met 30 times and took 918 decisions related to laws, rules and rates for the new tax regime within a span of just over two years. More than 96 per cent of the decisions have already been implemented through 294 notifications. The GST Council was set up on 15 September 2016, as the country's first 'federal institution' under Article 279A (1) of the Constitution. The working of the Council has ushered in a new phase of cooperative federalism, wherein the Central and state governments work together to take collective decisions on all issues relating to indirect tax regime of the country.

Source: PTI, 28/10/2018

GST collection exceeds Rs 1 lakh crore in October, 2018 (Rupees, in Crore)



The total gross GST revenue collected in the month of October, 2018 is Rs. 1,00,710 crore of which CGST is Rs. 16,464 crore, SGST is Rs. 22,826 crore, IGST is Rs. 53,419 crore and Cess is Rs. 8,000 crore.

NEWS

Centre and States apportion Rs 32,000 crore IGST in October 2018

IGST funds have been divided for the fifth time between the Centre and the States. As much as Rs 32,000 crore lying in the IGST pool have been apportioned in October 2018. About Rs 29,000 crore was settled in September, Rs 12,000 crore in August, Rs 50,000 crore in June and Rs 35,000 crore in February this year.

Source: PTI, 30/10/2018

Civil Aviation Ministry for bringing ATF under GST

The Minister of State for Civil Aviation Jayant Sinha urged the Finance Minister Arun Jaitley to bring aviation turbine fuel (ATF) under the ambit of GST. Local carriers have been facing tough business conditions, especially with surging oil prices and depreciation of the rupee, despite India being one of the fastest growing domestic aviation markets in the world. ATF constitutes approximately 35--40 per cent of operational cost of an airline in the country.

Source: PTI, 29/10/2018

CBIC to focus on behavioural patterns of taxpayers to improve GST compliance

The Central Board of Indirect Taxes and Customs (CBIC) has set up a 'Nudge Team' to formulate a strategy on studying behavioural patterns of taxpayers and use segmented approach to encourage them to pay taxes. While the current practice focused only on deterrent action to check tax evasion, the new plan is based on 'behavioural interventions' or 'non-deterrence approach' adopted by countries like the UK, Australia and Mexico to frame policies and increase tax collections. On the basis of behavioural patterns, the department will segregate taxpayers into different categories like disengaged, resisters, triers and supporters.

Source: PTI, 28/10/2018

GST Council Secretariat asks six States to set up AAAR promptly

The GST Council Secretariat has asked six states, including Delhi, Madhya Pradesh and Punjab, and the Union Territory of Puducherry, to expeditiously set up appellate authorities to enable aggrieved entities to file appeals against orders of the Authority for Advance Rulings (AAR). Even after one year of implementation of the GST, six states and Puducherry are yet to set up the Appellate Authority for Advance Ruling (AAAR). In the absence of AAAR, it is not possible for ag-

grieved entities to contest the verdict passed by the AAR.

Source: PTI, 21/10/2018

■ Pricing strategies of 50 companies under NAA lens

The National Anti-profiteering Authority (NAA), under the GST framework, is seeking details on pricing strategies from consumer goods companies and over-the-counter (OTC) drug makers to check whether they have passed on the benefits of reduced GST rates to consumers. NAA has issued letters to various companies, including Mankind Pharma, Johnson & Johnson, Nirma and Colgate-Palmolive, in the last few weeks questioning their pricing strategies.

Source: ET, 26/10/2018

■ GST Council to seek all states' views on Kerala's demand: GoM

The Group of Ministers (GoM) set up to deliberate 'disaster cess' has decided to seek the response of all states. The GoM was of the view that the National Disaster Relief Fund (NDRF) was not sufficient to fund natural calamities and hence decided to take the matter of a state-specific or nationwide 'disaster tax or cess' to all the states. The panel would also seek views of the Attorney General in this regard.

Source: IANS, 15/10/2018

■ CBIC clarified Rs 38824 crore of IGST refund settled, only Rs 3065 crore pending

The CBIC came with a clarification against the statement of Federation of Indian Export Organisations (FIEO) that Rs 22,000 crore is pending with government for refund. It is clarified that about Rs 38,824 crore of the total IGST refund claims of Rs 41,889 crore transmitted to Customs from GSTN as on 12/10/2018 have already been disposed. The remaining claims amounting to Rs 3065 crore are held up on account of various deficiencies, which have been communicated to exporters for remedial action.

Source: Press Release by CBIC, 12/10/2018

■ PIN code made mandatory for generating e-way bill

Tightening the norms for issuance of e-way bill, the GSTN has made it mandatory for businesses and transporters to mention PIN codes of places of loading and unloading of consignments. Quoting of PIN codes will help in calculating the correct distance and determine the validity of the e-way bill, which is used to transport goods worth over Rs 50,000 both within and outside a state. So far, businesses and transporters are required only to broadly mention the distance and place of loading and unloading of consignments for generating e-way bill.

Source: PTI, 03/10/2018

STATUTORY CHANGES

■ CBIC clarified several issues related to casual taxable person and ISD

The CBIC has issued clarifications with reference to three major issues: (i) The amount of advance tax to be deposited by casual taxable person; (ii) Maximum period of operation by casual taxable person; and (iii) Manner of recovery of excess tax distributed by ISD.

Source: Circular No.71/45/2018-GST, 26/10/2018

■ Exemption from compulsory registration to inter-state suppliers of handicraft goods

Inter-state suppliers of some category of handicraft goods

shall be exempt from taking compulsory registration as casual taxable person. This supersedes the earlier notification No.32/2017 - CT, dated 15 September 2017.

Source: Notification 56/2018-CT dated 23.10.2018 issued.

■ Return of 'time expired' drugs or medicines

The common trade practice in the pharmaceutical sector is that drugs or medicines are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as the case may be. It is significant to mention here that such goods have a defined life term, which is normally referred to as the date of expiry. Such goods, which have crossed their date of expiry, are colloquially referred to as time expired goods and are returned to the manufacturer, on account of expiry, through the supply chain. The retailer/wholesaler can return such goods by treating it as a fresh supply or by issuing credit note.

Source: Circular No. 72/46/2018-GST, 26/10/2018

■ Exemption to post audit authorities under MoD from TDS compliance

TDS shall not apply to post audit authorities under the Ministry of Defence (MoD), other than the authorities specified in the Annexure-A and their offices. List of 30 Pr./controller of defence accounts has been given in the Annexure who and their offices will have to implement the TDS. All other authorities in MoD other than these are exempted.

Source: Notification No. 57/2018 - Central Tax, 23/10/2018

■ Time limit for final returns extended till 31 December 2018

The time limit to furnish final return in FORM GSTR-10 has been extended till 31st December 2018 for all taxpayers, whose registration has been cancelled on or before 30th September 2018.

Source: Notification No. 58/2018 - Central Tax, 26/10/2018

■ Last date for GST ITC-04 extended till 31 December 2018

The time limit for furnishing the declaration in FORM GST ITC-04 (Input Tax Credit on job works) for the period from July 2017 to September 2018 extended till 31 December 2018.

Source: Notification No. 59/2018 - Central Tax, 26/10/2018

■ Both Central and State Tax authorities are authorised to initiate enforcement action

The Union Government has clarified that both the Central and State tax authorities are authorised to initiate intelligence-based enforcement action against tax payers irrespective of the administrative assignment of the taxpayer to any authority. The initiating authority is allowed to complete the entire process of investigation, issuance of show cause notices, adjudication, recovery, filing of appeal, etc., arising out of such action.

Source: D.O.F. No CBEC/20/43/01/2017 - GST, 05/10/2018

■ Govt. notifies CGST (12th Amendment) Rules, 2018

The exporters, who have received capital goods under the Export Promotion Capital Goods (EPCG) Scheme, have been allowed to claim refund of the IGST paid on exports as per the CGST (12 Amendment) Rules, 2018 notified by the government. Rule 89 (4B) of the CGST Rules has been aligned to make it consistent with Rule 96 (10) of the CGST Rules.

Source: Notification No. 54/2018 - Central Tax, 09/10/2018

■ IGST refunds have not been granted due to

claiming higher rate of drawback

The CBIC has stated that the cases in which IGST refunds have not been granted due to claiming higher rate of drawback and where higher and lower rates were identical. It stated that allowing exporters to avail IGST refund after initially claiming the benefit of higher drawback cannot be justified.

Source: Circular No.37 /2018 customs, 09/10/2018

Govt. notifies CGST (11th Amendment) Rules, 2018

The CGST (11th Amendment) Rules, 2018, wherein Rule 96 (10) of the CGST rules has been substituted with effect from 23 October 2017, has been notified by the government. This notification has restored the position which existed before the amendment carried out in the said rule by notification No. 39/2018, Central Tax, 04/09/2018.

Source: Notification No 53/2018 – Central Tax, 09/10/2018

Composition scheme business need not file purchase details while filing GSTR4

It has been brought to notice that doubts regarding the manner of filing the quarterly return by composition dealers in Form GSTR4 in the absence of auto-population of the details of inward supplies (other than supplies attracting reverse charge) received from registered suppliers exist amongst tax payers. In this regard, it is clarified that the taxpayers, who have opted to pay tax under composition levy, need not furnish the data in serial number 4A of Table 4 of Form GSTR4.

Source: Press Release by Ministry of Finance, 17/10/2018

Diplomatic missions entitled to refund of Compensation Cess

CBIC clarified that those UN agencies, foreign embassies or consular posts shall be entitled to refund of 'Compensation Cess' payable on intra-state and inter-state supply of goods and services. Under section 55 of the CGST Act, 2017, they are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in notification No. 16/2017-Central Tax (Rate), 28/06/2017.

Source: Circular No. 68/42/2018-GST, 05/10/2018

Govt. constitutes AAR and AAAR for UTs

The Government has notified the constitution of the Authority for Advance Ruling (AAR) and the Appellate Authority for Advance Ruling (AAAR) in the Union Territories. The appointment of officers is valid with effect from 08/10/2018. As per the Notification, the Government has appointed several Officers as Advance Ruling and Appellate Authority for Andaman and Nicobar Islands, Chandigarh, Daman and Diu, Dadra and Nagar Haveli and Lakshadweep.

Source: Notification No. 14&15/2018 – Union Territory Tax, 08/10/2018

GST Informant Reward Scheme launched to tackle tax evasion

The Government has launched a reward scheme for the informants who give information on tax evasion to the department. A circular said that consequent to the introduction of GST, a need was felt to include recovery in cases under CGST and IGST Acts under the Reward Guidelines to ensure their parity with cases booked under the Customs Act, NDPS Act, Service Tax and Central Excise Acts. Further, it was also brought to the notice that government is considering reward proposals of Rs. 50 lakh or more for informers.

Source: Circular No. 36/2018-Customs, 05/10/2018

CBIC issues guidelines on online registration and filing of claims

The CBIC issued guidelines on online registration and online filing of claims by eligible units under the Scheme of Budgetary Support. The Board has clarified that no claim for the quarter ending September 2018 onwards shall be allowed to be filed manually. Further, all claims after 15th October 2018 shall be required to be filed and processed online.

Source: Circular No. 1067/6/2018-CX, 05/10/2018

NEW FUNCTIONALITY ON GST PORTAL

Download TCS data in Form GSTR-2A to an Excel file: Taxpayers were earlier provided with a facility to download details of Form GSTR-2A in an Excel file. Now they can download data in TCS section also to that Excel file in a different sheet.

Changes in challan of ISD registrants: ISD registrants are now required to fill only fee and penalty minor heads in challan. All other minor heads (Tax, Interest, and Others) will remain disabled.

Acceptance of CIN generated after expiry of CPIN: CIN generated in case of net-banking (e-payment) is accepted, even after expiry of CPIN, if payment is initiated before expiry of CPIN by a taxpayer.

Masking of data in challan: At the time of generation of challan, mobile no, e-mail-ID and address of tax payer will now be masked for data security.

Replication of opt in or opt out status across all GSTINs with same PAN: If a taxpayer wishes to opt in or opt out from composition scheme, he/she performs this activity for a particular GSTIN on the GST portal. Changes have been made on the GST portal so that if a user opts in or opts out of composition scheme then this status will be reflected across all GSTINs with the same PAN.

Filing of refund applications enabled: It has now been provided with facility to apply for refund for multiple tax periods and upload statements as follows: Export of services with payment of tax, ITC accumulated due to inverted duty structure, on account of supplies made to SEZ with payment of IGST, and Recipient/Supplier of deemed export.

Demands and recovery: Application for payment of dues in installments has been enabled on the GST portal for the taxpayers.

Amendments in Registration core field enabled: Facility has been provided on the GST portal to NRTP, OIDAR, TDS & TCS taxpayers for applying for amendment in registration of core fields.

Refund of excess balance in ECL enabled: Auto population of refund amount in case of refund of Excess Balance in Electronic Cash Ledger (ECL). Facility to claim refund on account of Excess Balance in Electronic Cash Ledger in Form RFD-01A has been enabled.

ADVANCE RULINGS

Reimbursement by HO to liaison office do not amount to 'supply' hence not liable to GST: AAR-Tamil Nadu

Takko Holding GmbH, In re (2018)

Agriculture seeding trays classifiable as article of plastic, taxable at 18 per cent GST: AAR-Tamil Nadu

M/s Saro Enterprises, In re (2018)

Building of bus on chassis and input provided by recipient is classified as 'Supply of services' under SAC 9988 & taxable @18 per cent: AAR-Goa

Automobile Corporation of Goa Ltd, In re (2018)

Electric overhead travelling grab crane being renewal energy devises taxable at rate of 5 per cent GST: AAR-Maharashtra

M/s Mukand Limited, In re (2018)

Input tax credit is eligible on real estate brokerage services for renting of property on a fee basis: AAT-Tamil Nadu

M/s Adwitya Spaces Pvt. Ltd

Event management support service provided to registered recipient outside State, liable to 18 per cent IGST: AAR -Goa

Grasshopper Productions, In re (2018)

Printing services to educational board exempt from GST: AAR- Telangana

KL Hi-tech Secure Print Ltd., In re (2018)

Aluminum manufacturer can claim ITC of input services for maintenance of guest house: AAR-Odisha

National Aluminium Company Ltd., In re (2018)

Activity of extracting water and removing contaminants to be classified under No.9954: AAR-Maharashtra

Membrane Filters (I) (P.) Ltd., In re (2018)

No GST exemption on educational courses offered by entities approved by NSDC: AAR – Maharashtra

IMS Proschool (P.) Ltd., In re (2018)

GST registration limit for co-owners of a property to be checked individually: AAR-Kerala

Elambrancheri Khaldoon, In re (2018)

Free IPL tickets to attract 18 per cent GST: AAR - Punjab

K P H Dream Cricket Pvt Ltd (Kings XI Punjab), In re (2018)

Supply of works contracts awarded by Government attracts 12 per cent GST: AAR -Kerala

M/s. Mary Matha Construction Company, In re (2018)

Co-owner need not obtain GST registration if his individual turnover below Rs. 20 lakh: AAR - Kerala.

Elambrancheri Khaldoon, In re (2018)

Medicines supplied to in-patients via hospital's pharmacy will not attract GST separately: AAR – Kerala

Ernakulam Medical Centre Pvt Ltd, In re (2018)

Absorbing developmental charges in fixing land cost is lawful: AAR - Kerala

M/s. PPD Living Spaces Pvt. Ltd., In re (2018)

CASE LAWS

■ **Constitutional validity of GST Compensation Cess upheld by SC**

Union of India vs. Mohit Minerals (2018)

■ **Constitutional validity of Section 140(5) of CGST Act, 2017 upheld: HC, Gujarat**

M/s RSPL vs Union of India (2018)

■ **Constitutional validity of bringing lotteries under GST upheld by HC, Calcutta**

Teesta Distributors & Ors. v. Union of India & Ors (2018)

■ **GST Act doesn't prohibit continuation of investigation: HC, Gauhati**

Laxmi Narayan Sahu v. Union of India (2018)

■ **Condoned delay of 12 days in filing an appeal on ground of GST transition period: HC, Allahabad**

Commissioner of CGST & CE v. Sharma Fabricators & Erectors (P.) Ltd. (2018)

■ **Directs assessee to contest matter before concerned GST officer for IGST applicability: HC, Delhi**

Bagadiya Brothers (P.) Ltd. v. Union of India (2018)

■ **Hybrid Amplifier couldn't be treated as accessory of cable TV: HC, Bombay**

CST v. Khush Bhakht Electronic Engineers (P.) Ltd (2018)

■ **Time Limit contained in Rule 117 of CGSTs Rules not Ultra Vires: HC Ahmadabad**

Willowood Chemicals Pvt Ltd v. Union of India (2018)

■ **Rectification of GST-TRAN1 already filed not allowed: HC Gujarat**

■ M/s Jay Chemical Industries v. Union of India (2018)

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