

GOODS AND SERVICES TAX

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

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GST Council sets up GoM to examine Kerala's demand

At the 30th GST Council meeting held on 28/09/2018, the main point of discussion was the demand raised by Kerala to allow imposition of 10 per cent cess to help rehabilitate the flood affected. While all states were sympathetic to this request, the Council said the matter should be examined in a wider context because it would set a precedent. In this context the Council formed a seven-member Group of Ministers (GoM) with Bihar Deputy Chief Minister Sushil Kumar Modi as convenor to examine as to how the states hit by a natural calamity can be assisted under the GST regime. The Kerala Finance Minister Dr. T.M Thomas Isaac is one of the panel members of the GoM. The panel will look into five issues flagged by the Council, including whether the burden of increased tax should be borne by the people of the state affected by a natural calamity or if it should be an all-India levy. It will also consider whether the additional levy should be limited to luxury or sin goods or cover a wider range of products. The report has to be submitted within 31st October, 2018.

NEWS

GST revenue crosses Rs 94,000 crore in September 2018

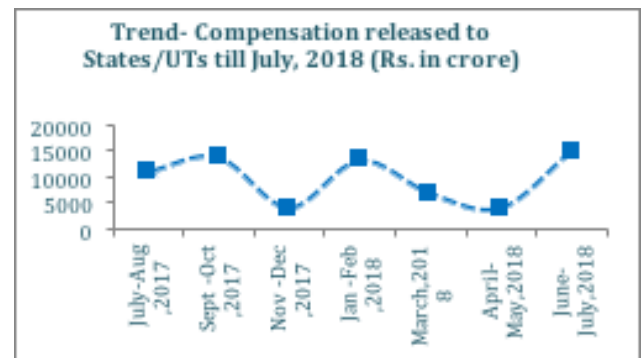
The total gross GST revenue collected in the month of September, 2018 is Rs. 94,442 crore of which CGST is Rs. 15,318 crore, SGST is Rs. 21,061 crore, IGST is Rs. 50,070 crore (including Rs. 25,308 crore collected on imports) and Cess is Rs. 7,993 crore (including Rs. 769 crore collected on imports). This is slightly higher than the collection of Rs. 93,960 crore in August, 2018. The total number of GSTR 3B Returns filed for the month of August up to 30 September, 2018 is 67 lakh. The total revenue earned by Centre the States after settlement in the month of September is Rs. 30,574 crore for CGST and Rs. 35,015 crore for the SGST.

Source: PIB 01/10/2018

States/UTs has been paid compensation of Rs. 67,007 crore till July, 2018

As per Sec. 7 of the GST (Compensation to States) Act, 2017 loss of revenue to the States on account of implementation of GST shall be payable during the transition period and it shall be provisionally calculated and released at the end of every two months during the transition period of five years. As per Sec. 4 of the said Act, financial year 2015- 16 has been taken as the base year for calculating compensation amount payable to States for loss of revenue. The projected nominal growth rate of revenue subsumed for a state during the transition period shall be 14% per annum. As per Sec. 7(c) of the said Act, the total compensation payable in any financial year shall be the difference between the projected revenue for any financial year and the actual revenue collected by a State. On this basis, the revenue loss due to implementation of GST to the States/UTs has been paid compensation of Rs. 67,007

crore for the period of July 2017 to July, 2018.



Source: Lok Sabha, Unstarred Question No. 4037, 10/08/2018

Cabinet approves proposal to convert GSTN into Government entity

The Cabinet cleared a proposal to convert GST Network (GSTN) into a Government-owned company on 26/09/2018. The Finance Minister said that 50 per cent stake will be owned by the Centre and the remaining by the states on pro-rata basis in the new structure. Currently, the Centre and states together hold 49 per cent stake in the GST Network, the company that provides IT backbone to the GST regime. The remaining 51 per cent is held by five private financial institutions -- HDFC Ltd, HDFC Bank Ltd, ICICI Bank Ltd, NSE Strategic Investment Co and LIC Housing Finance Ltd. The proposal to convert GSTN into 100 per cent Government-owned company was earlier approved by the GST Council.

Source: PTI, 26/09/2018

■ Infosys working on simplified GST returns form

The GSTIN has asked Infosys to develop new forms to simplify the process of return filing for traders. It will be rolled out within a period of six months. Apart from this, Infosys and 18 other companies are also working on some other tools to help with GST compliance, said Sushil Kumar Modi, Chairman of the Group of Ministers (GoM) in its 10th meeting held at Bengaluru on 22/09/2018.

Source: Business Today, 23/09/2018

■ PAN wise search now available on GST portal

A new feature, PAN wise search has been introduced in the GST portal, which helps to search the details of the taxpayers in pre-login and post login mode. This search will fetch all the GSTINs registered against the entered PAN in different states, along with status of registration in a tabular format.

Source: www.gstin.org

■ GST Audit can't be done by an Internal Auditor: ICAI

The Institute of Chartered Accountants of India (ICAI) has clarified that an internal auditor of an entity can also undertake GST Audit of the same entity as required under the CGST Act, 2017. The Council of the Institute, while considering the issue at its 378 Meeting held on 26th and 27th September, 2018, noted its earlier decision taken at its 281 Meeting held from 3rd to 5th October, 2008, that internal auditor of an assessee, whether working with the organization or independently practising Chartered Accountant being an individual Chartered Accountant or a firm of Chartered Accountants, cannot be appointed as Tax auditor (under the Income Tax Act, 1961).

Source: BusinessLine, 29/09/2018

■ GST Amendment Bill 2018 got President's Assent

The Parliament passed four bills amending laws relating to the GST in the month of August 2018 aimed at plugging loopholes in existing laws and reducing the compliance burden for taxpayers. These amendments have received Presidential assent on 29th August 2018. It shall come into force on the date as notified by the Government.

Source: PTI, 30/08/2018

■ 225 million E-way bills generated across India

Around 225 million E-way bills have been generated across India till September 13 since the new electronic billing system was introduced on 1st April, 2018. The E-way bill system kicked off as part of the GST regime for transporting goods worth more than Rs 50,000. Between 1st April and 13th September 2018, a total of 224.8 million E-way bills have been generated. Of these, inter-state transport of goods accounted for 108.9 million bills while intra-state transport contributed another 115.8 million. The average daily generation of bills was roughly 1.5 million in the country.

Source: Business Standard, 14/09/2018

■ Government sets up office of GST Commissioner (Investigation)

Government has created an office of Commissioner GST (Investigation) under Revenue department to deal exclusively with enforcement issues like search, seizure and arrest, as an initiative to track down the tax evaders. Initially, the Government was lenient on enforcement action so the industry could adjust to the new tax regime. Mr. Neeraj Prasad has been appointed as the first Commissioner in the office of GST-Investigation.

Source: PTI, 12/09/2018

■ Government spent Rs 132.38 cr on GST advertisements

The Government of India spent Rs 132.38 crore on advertisements for GST. As per the Bureau of Outreach and Communication under the Ministry of I&B, the "expenditure on GST advertisements through this bureau" on print media stood at Rs 1,26,93,97,121. For outdoor media, the expenditure for GST advertisement stood at Rs 5,44,35,502, the bureau said in its RTI response dated 9th August, 2018.

Source: PTI, 03/09/2018

■ NACIN announced date of first GSTPs Examination

As per notification no. 24/2018-Central Tax dated 28.5.2018, National Academy of Customs, Indirect Taxes and Narcotics (NACIN) has announced an examination for confirmation of enrollment of GST Practitioners (GSTPs). The GSTPs covered under rule 83(1)(b), are required to pass the said examination before 31/12/2018. The examination under online mode shall be conducted on 31/10/2018 from 1100hrs to 1330hrs at designated examination centers including Thiruvananthapuram. The registration can be done at <https://nacin.onlineregistrationform.org>.

Source: Press release by NACIN dated 17/09/2018

■ Prosecution against a senior IRS officer: CVC advises Govt. to grant

Paving way for the first-ever prosecution against a senior IRS officer of the GST Department, constituted last year, the Central Vigilance Commissioner (CVC) has advised the Government to grant sanction against Sh. Sansar Chand, 1986 batch IRS officer, arrested by the CBI on charges of corruption in February, 2018.

Source: The Indian Express, 18/09/2018

STATUTORY CHANGES

■ TDS, TCS provisions under GST come into effect from 1st October, 2018

The Government has notified that the provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS) provisions under GST regime will be implemented from 1st October 2018. Through this, e-commerce players like Amazon, Flipkart etc., have to pay up to 2% TCS. Similarly, Government institutions including local authorities & public sector enterprises etc., will have to deduct TDS at 1% of both CGST and SGST.

Source: Notification Nos. 50/2018 & 51/2018 – Central Tax, dated 13/09/2018

■ Taxpayer turnover above Rs 2 Cr need GST audit

The Government notified the GSTR-9C form for annual GST audit under which every taxpayer having turnover above Rs 2 crore in a financial year need to fill up a reconciliation statement and also obtain a certification of audit. In addition, as per Section 35 of CGST Act, 2017, every tax payer whose turnover exceeds Rs 2 crore during a financial year, is required to submit audited annual accounts and a reconciliation statement in GSTR-9C. It is clear that it's essentially a reconciliation statement for reconciling turnover, input tax credits and tax payments reported in GST annual returns vis-a-vis annual books of accounts.

Source: Notification No. 49/ 2018 – Central Tax, dated 13/09/2018

■ Due date for filing GSTR 1 extended to October 31, 2018

The extended deadline for filing of the GSTR-1 for transactions during July 2017 to September 2018 is till October 31,

- 2018. It also announced a one-time waiver of late fees to enable their filing within the new deadline. It is applicable to all registered persons having aggregate turnover above Rs 150 million including the registered persons in Kerala, or whose principal place of business is at Kodagu and Mahe. Besides, taxpayers who will be migrating to GST, the last date for furnishing the details of outward supplies of goods and services in form GSTR-1 and for filing GSTR-3B for the months of July 2017 to November 2018 has been extended till December 31, 2018.

Source: Notification Nos. 43/2018 & 44/2018-Central Tax, dated 10/09/2018

- **Extends the time limit for making the declaration in FORM GST ITC-01**

The Government extends the time limit for making the declaration in FORM GST ITC-01 for specified classes of taxpayers by registered persons who have filed the application in FORM GST-CMP-04 between 02/03/2018 and 31/03/2018 has been extended to 4th October, 2018.

Source: Notification No. 42/2018 - Central Tax, dated 04/09/2018

- **Waives off late fee for filing of GSTR-3B, GSTR-4 & GSTR-6 for specified period**

The Government has waived - off late fees for taxpayers who have submitted the GSTR -3B but not filed on GST portal for the month of October, 2017. The Govt. has also waived off late fees for taxpayers who have filed GSTR-4 for the period October to December, 2017 by due date but late fees was erroneously levied. The late fee has also been waived off on filing of GSTR-6 for the period between 1st January, 2018 and 23rd January, 2018.

Source: Notification No. 41/2018 - Central Tax, dated 04/09/2018

- **Extends time limit for making declaration in FORM GST ITC -04**

In pursuance of section 168 of the CGST Act, 2017 and sub-rule (3) of rule 45 of the CGST Rules, 2017, and in supercession of the notification of the Revenue Department No. 53/2017-Central Tax, The CBIC extends time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to June, 2018 till 30th September, 2018.

Source: Notification No. 40/2018 - Central Tax, dated 04/09/2018

- **CBIC notifies Form GSTR-9 of Annual Return**

The CBIC has notified Central GST (Eighth Amendment) Rules, 2018 wherein it has notified that new FORM GSTR-9- Annual Return and FORM GSTR-9A- Annual Return for Composition Taxpayer.

Source: Notification No. 39/2018 - Central Tax, dated 04/09/2018

- **Proceedings of detention couldn't be initiated for minor mistakes in generation of E-way bill**

The CBIC has clarified that the proceedings of detention of goods could not be initiated under section 129 of the CGST Act for minor mistakes in generation of E-way bill like spelling mistakes in the name of the consignor or the consignee, error in the pin code, error in the address of the consignee, error in one or two digits of the document number, error in one or two digits of the vehicle number, etc. In such cases, penalty of Rs.1000 will be levied.

Source: Circular No. 64/38/2018-GST, dated 14/09/2018

- **CBIC issued clarification on various refund related issues**

The CBIC has issued clarification on various refund related issues such as submission of invoices for processing of claims

of refund, system validations in calculating refund amount, re-credit of electronic credit ledger in case of rejection of refund claim, scope of Rule 96(10) of the CGST rules, disbursement of refund amount after sanctioning by the proper officer, status of refund claim after issuance of deficiency memo and treatment of refund applications where the amount claimed is less than Rs.1000.

Source: Circular No. 59/33/2018-GST, dated 04/09/2018

- **No need to extend validity of E-way bill for goods stored in transporter's Godown**

The Government has clarified that the validity of E-way bill will not be extended to goods stored in transporter's godown because the transporter's godown has to be declared as an additional place of business by the recipient taxpayer.

Source: Circular No. 61/35/2018-GST, dated 04/09/2018

- **Taxpayer can reverse wrongly availed credit through table 4(B)(2) of GSTR-3B**

The CBIC has clarified that the taxpayers can reverse the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through table 4(B)(2) of form GSTR-3B. The applicable interest and penalty on all such reversal shall be paid through entry in column 9 of Table 6.1 of form GSTR-3B.

Source: Circular No.58/32/2018-GST, dated 04/09/2018

- **Trading of Priority sector Lending Certificates attract 12% GST**

The CBIC has clarified that 12% GST would be applicable on Trading of Priority sector Lending Certificate (PSLCs). It has also clarified that GST on PSLCs for the period July1, 2017 to May, 27, 2018 will be paid by the seller bank on forward charge basis.

Source: Circular No. 62/36/2018-GST, dated 12-09-2018

KERALA STATE GST

- **E-way bill not mandatory for tiles and sanitary-ware till 30th September 2018**

Due to the unprecedented flood, many traders could not clear the coastal consignments of tiles and sanitarywares from Cochin port in time. As a result, the validity of E-way bills and its revelation has expired. Considering this issue, the Government has decided to grant exemption from E-way bill for further transport of their consignments, which reached Cochin port between 8th August, 2018 and 25th August, 2018, to respective destinations within the state under Rule 138(4)(d) of the KGST Rules, 2017.

Source: Notification No. 9/ 2018 dated 13/09/2018

- **Government order for releasing of security deposit furnished during VAT regime**

State GST Department has received many representations from traders regarding release of their security deposit furnished during KGST/VAT regime. They rightly pointed out that GST statute does not prescribe any security as a pre-condition for obtaining registration. However the security furnished by the migrant dealers under VAT regime is still kept in the assessment circle. In this circumstance, Government issued a circular stating that the securities furnished by those dealers against whom no liability is outstanding need not to retain by the assessing authorities further and may be released forthwith.

Source: Circular No. 23/2018

- **Kerala's GST collection for August, 2018 was Rs. 1128 crore.**

The Government of Kerala collected Rs. 1128.80 crore as GST in the month of August 2018 which is Rs. 147.75 crore lower than the previous month's collection. Out of the amount Rs. 529.67 crore has been collected as SGST, Rs. 243.65 crore as IGST, Rs. 351.73 crore as CGST and Rs.3.75 crore as CESS.

Source: Kerala State GST Department (GST facilitation committee meeting held on 22/09/2018)

State GST Department takes a firm stand on un-authorized moneylenders

Kerala GST Department takes a firm stand on un-authorized moneylenders and will be watched closely. In this regard a public notice was issued through major newspapers on 14/09/2018. The notice states that the department has been following un-authorized moneylending activities in the state especially after the floods. This activity is punishable under Kerala Money Lenders Act and may be liable for up to three years imprisonment and up to Rs.50,000 penalty. If such activities are noticed by the public, they may file a complaint with Deputy Commissioner (Intelligence), State GST Department, Thiruvananthapuram, via his Email: tvmdci.ctd@kerala.gov.in or 0471-2785001, 2785002.

Source: Press release by State GST Dept., 14/09/2018

The higher rates rebated Customs duty, Central Excise duty and Service tax on inputs or input services used in manufacture of export products subject to the condition that no input credit was claimed. The lower rates rebated only the Customs duty on inputs and Central Excise duty on fuel for generation of captive power used in manufacture of export products, in other cases. With the implementation of GST, input services and inputs (other than tobacco products and specified petroleum products) used in manufacture of export products are covered under GST and do not suffer the incidence of Service tax and Central Excise duty respectively. Further, GST legislation provides for zero-rating of export through refund of GST paid by exporters. Accordingly, only the lower rates of duty drawback have been continued. In view of the above, no benefit available to exporters for neutralisation of duties/taxes suffered by export products has been withdrawn under the GST.

(b) to (d): Yes, Madam. Some exporters/ associations and Ministries have forwarded representations to restore pre-GST higher rates of duty drawback. On account of zero-rating of exports under GST and refund of GST being available to exporters, the question of restoring erstwhile higher rates of duty drawback does not arise.

PARLIAMENT

LOK SABHA QN.NO.4040 (10/08/2018): SHRI BHOLA SINGH

(a) Whether the benefits available to exporters under the drawback schemes have been withdrawn under the Goods and Services Tax (GST) and if so, the details thereof;

(b) Whether the exporters have represented to the Government for restoration of the benefits and if so, the details thereof and the reaction of the Government thereto;

(c) Whether several Ministries have also expressed their concern in this regard; and

(d) If so, the details thereof and the corrective steps proposed in this regard?

MINISTER OF STATE IN THE MINISTRY OF FINANCE, SHRI SHIV PRATAP SHUKLA

(a): Duty Drawback is a statutory scheme which provides for neutralisation of certain duties/ taxes on inputs that are used in manufacture of export products. Prior to implementation of GST, there were two All Industry Rates of duty drawback.

ADVANCE RULINGS & CASE LAWS

■ Transportation charges liable to GST even if transporter is not a GTA: (AAR-Maharashtra), Dinesh Kumar Agrawal, In re (2018)

■ Cleaning of agriculture produce away from the farm not entitled to GST exemption (AAR-Rajasthan), Rara Udhyog, In re (2018)

■ Denial of transitional credit is unconstitutional: HC Gujarat, Filco Trade Centre Pvt Ltd v Union of India (2018)

■ Technical problems not a ground to ignore penalty and detention under CGST Act: HC Kerala, Garuda Timber Traders v. Assistant Sales Tax Officer, Malappuram (2018)

■ Not to invoke bank guarantee if there is time to file appeal against order: HC Kerala, Berger Paints India Ltd. V. STO (2018)

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