

GST Registration – Report of the Joint Committee on Business Process

The Central Government, ahead of the implementation of GST, has released reports of Joint Committee on Business Process for GST, on (a) GST Registration (b) GST Payment Process (c) Refund Process and (d) GST return. First three reports were release on same day, but report on GST return was release later in October 2015.

The Report of the Joint Committee on Business Processes for GST on GST Registration is no the law, but it indicate what the Central Government and Empowered Committee of State Finance Ministers has agreed upon, which will be basis for formulation of law on the same.

Some of the salient features of said report on GST Registration are as under:

- Registration application must be filed within 30 days from the date of the dealer's liability for obtaining registration i.e. once a new business is started or once turnover exceed the threshold limit;
- Effective date of registration would be the date of application in all cases i.e. whether the application has been filed within prescribed time limit of 30 days or otherwise.
- The taxpayer would be eligible for ITC in respect of all his purchases from the date of application in case application for registration has been filed within 30 days.
- The taxpayer would, however, not be eligible for ITC in respect of his purchases prior to the date of registration in case the registration application is not filed within the prescribed time limit of 30 days.
- If a taxable person carries out any inter-state supply and / or is liable to pay GST under reverse charge, he will be compulsorily required to take registration, irrespective of turnover. Such person shall neither be eligible for exemption threshold nor for Compounding scheme.
- An individual importing service for personal consumption will not be liable to pay GST under reverse charge or register under GST.
- Input Service Distributor (ISD), only of services, would be required to obtain GSTIN for distributing the credit of GST paid on services proposed to be used at multiple locations which are separately registered.
- For each State the taxable person will have to take a separate registration, even though the taxable person may be supplying goods or services or both from more than one State as a single legal entity.
- Multiple registrations within one State to business verticals of a taxable person may also be permitted, subject to all the verticals being on the same scheme of tax treatment.
- Each taxpayer will be allotted a State wise PAN-based 15-digit Goods and Services Taxpayer Identification Number (GSTIN).

- Scanned documents of broadly five types are required to be filed along with the application for Registration such as constitution of business, details of principal place of business, details of bank accounts, details of authorized signatory and photographs.
- The registration can be either surrendered by the registrant or cancelled by the tax authorities.
- The cancellation of registration may be done by tax authorities in some situations like in case a tax payer contravenes specified provision of the GST law or return is not filed during a predetermined period.

GST Payment Process– Report of the Joint Committee on Business Process

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The Report of the Joint Committee on Business Processes for GST on GST Payment Process is no the law, but it indicate what the Central Government and Empowered Committee of State Finance Ministers has agreed upon, which will be basis for formulation of law on the same.

Some of the salient features of said report on GST Payment Process are as under:

- Payment by taxpayers through Internet Banking through authorized banks and through credit card/debit card;
- Over the Counter payment (OTC) through authorized banks, this facility will be available for payments up to Rs. 10,000/- per challan only;
- Payment through NEFT/RTGS from any bank (including other than authorized banks);
- In the Challans jurisdictional location (e.g. Commissionerate, division and range) will not be mentioned.
- Challan correction mechanism would be minimal though not completely ruled out.
- If the amount paid is in excess then there is provision for either claim of refund by the taxpayer or the amount can be carried forward to the next period and therefore there is no need to provide for correction mechanism.

GST Refund Process – Report of the Joint Committee on Business Process

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The Report of the Joint Committee on Business Processes for GST on GST Refund Process is not the law, but it indicates what the Central Government and Empowered Committee of State Finance Ministers has agreed upon, which will be the basis for formulation of law on the same.

Some of the salient features of said report on GST Refund Process are as under:

- Issues on which refund arises ought to be kept at minimum and be clearly defined in the law, like excess payments, export, finalization of provisional assessment, refund of pre-deposits, etc.
- As a thumb rule, up to 90% of the refund claimed by the taxpayer may be sanctioned automatically by the system.
- The balance 10% of refund claims, amount of refund may be granted after completion of verification of documents / accounts to be done at the end of the financial year and to be completed within a period of three months.
- The taxpayer may file a simple refund application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund. A threshold amount below which self-certification (instead of CA Certificate) would be sufficient.
- The refund may not be kept in abeyance if the appellate authority's order (in pursuance of which refund arises) is appealed against at the next higher appellate forum unless the jurisdictional authority has obtained a stay from the higher appellate authority.
- GST Law may provide for certain predefined period during which refund may not be granted which can be regarded as the mandatory waiting period for the outcome of the appeal / application for stay.
- Tax Refund for International Tourist (TRT) scheme provides an opportunity to the foreign tourists to purchase goods during their stay in any country on payment of GST and obtain refund of the GST so paid, at the time of exit from the country. Nearly 52 countries have adopted such kind of refund mechanism.
- A period of one year from the relevant date may be allowed for filing of refund application. Relevant date for filing of each kind of refund needs to be defined separately.
- Documents evidencing tax payments required to be enclosed with the refund application should be minimal but adequate so that both the taxpayer and tax authority find it easy to deal with the application. Such as challan evidencing payment of tax sought to be refunded, copy of invoices, evidence that tax burden has not been passed on, CA certificate for this purposes is acceptable documents, but below certain limit, self-certification will be sufficient.
- The preliminary scrutiny may be carried out within 30 common working days.
- If the refund is not found to be legal or correct for any reason, then the jurisdictional authority should issue Show Cause Notice (SCN) to the applicant and thereafter the refund will be kept in abeyance in the system till the SCN is adjudicated.

- Prescribed time limit of 90 days from the date of the system generated acknowledgment of refund application within which refund has to be paid. Interest clause will start automatically once the prescribed time limit for sanctioning of refund has been breached.
- The rate of interest in case of refund may be around 6% and that in case of default in payment of interest may be around 18%.
- The interest will accrue from the last date when refund should have been sanctioned even when the refund is ordered to be paid by the order of the appellate authority in the appeal filed by the applicant against order of rejection passed by the refund sanctioning authority. This would discourage refund sanctioning authority from rejecting refund claims on frivolous grounds.

GST Return Process – Report of the Joint Committee on Business Process

The Central Government, ahead of the implementation of GST, has released reports of Joint Committee on Business Process for GST, on (a) GST Registration (b) GST Payment Process (c) Refund Process and (d) GST return. First three reports were release on same day, but report on GST return was release later in October 2015.

The Report of the Joint Committee on Business Processes for GST on GST Return Process is no the law, but it indicate what the Central Government and Empowered Committee of State Finance Ministers has agreed upon, which will be basis for formulation of law on the same.

Some of the salient features of said report on GST Return Process are as under:

- Every registered person is required to file a return for the prescribed tax period. A return needs to be filed even if there is no business activity (i.e. Nil Return) during the said tax period of return.
- Government entities / PSUs , etc. not dealing in GST supplies or persons exclusively dealing in exempted / Nil rated / non –GST goods or services would neither be required to obtain registration nor required to file returns under the GST law.
- State tax authorities may assign Departmental ID to such government departments/ PSUs / other persons. They will ask the suppliers to quote the Department ID in the supply invoices for all inter-State purchases being made to them. Such supplies will be at par with B2C supplies and will be governed by relevant provisions relating to B2C supplies.
- There will be different frequency for filing of returns for different class of taxpayers, after payment of due tax, either prior to or at the time of filing return.
- The return can be filed without payment of self-assessed tax as per the return but such return would be treated as an invalid return and would not be taken into consideration for matching of invoices and for inter-governmental fund settlement among States and the Centre unless the full self-assessed tax has been paid.
- Annual return (GSTR-8) will be filed by all normal / regular taxpayers. It will be based on financial records. This return to be filed annually is intended to provide 360 degree view

about the activities of the taxpayer. This statement would provide a reconciliation of the returns with the audited financial statements of the taxpayer. This return also provides for the reconciliation of the monthly tax payments and will provide the opportunity to make good for any short reporting of activities undertaken supply wise. This return is to be submitted along with the audited copies of the Annual Accounts of the dealer and would be filed by 31st December following the end of the financial year for which it is filed.

- The filing of return would be only through online mode although the facility of offline generation and preparation of returns would be provided. The returns prepared in offline mode would have to be uploaded.
- For all inter-state B2C supplies (including to non-registered Government entities, Consumer / person dealing in exempted / NIL rated / non GST goods or services), the suppliers will upload invoice level details in respect of every invoice whose value is more than Rs. 2,50,000/-.
- In the return form the description of goods and services may not be required to be submitted by the taxpayer as the same will be identified through the submission of HSN code for goods and Accounting Code for services.
- In order to differentiate between the HSN code and the Service Accounting Code (SAC), the latter will be prefixed with "s".
- The taxpayers who have turnover below the limit of Rs. 1.5 Crore will have to mention the description of goods/service, as the case may be, wherever applicable.
- Details relating to advance received against a supply to be made in future will be submitted in accordance with the Point of Taxation Rules as framed in the GST law.
- Details relating to taxes already paid on advance receipts for which invoices are issued in the current tax period will be submitted.
- In case inputs covered under one invoice are received in more than one instance/lot, the ITC will be given in the return period in which the last purchase is recorded in the books of accounts.
- The increase / decrease (in supply invoices) would be allowed, only on the basis of the details uploaded by the counter-party purchaser in GSTR-2, upto 17th day of the month. (i.e. within a period of 7 days). In other words, the supplier would not be allowed to include any missing invoices on his own after 10th day of the month.
- GST Law may provide what constitutes a sale price especially with respect to post sales discount. The Law may also contain suitable provisions about admissibility or otherwise of post supply discounts.
- GST law may provide for provision of TDS (Tax Deducted at source) for certain supplies of goods and/or services made to specified categories of purchasers who will be obligated to deduct tax at a certain percentage from the payment due to the suppliers. They will be required to file a TDS return.

- GST law may retain the concept of Input Service Distributor (ISD). Accordingly, ISDs would be required to file a monthly return.
- A registered Tax Payer shall file GST Return at GST Common Portal either himself using own user id and password or through his authorized representative (like CA) using the user Id and password or through any Facilitation Center (FC) approved by the Tax authorities.
- Along with the return, taxpayer is not required to submit any other document. The documents as required for scrutiny or audit shall be made available by the taxpayer to the audit party deputed by the CBEC /State tax authorities/CAG.
- There would be no revision of returns.
- A separate reconciliation statement, duly certified by a Chartered Accountant, will have to be filed by those taxpayers who are required to get 37 their accounts audited under section 44AB of Income Tax Act 1961. Currently this limit is Rs 1 Crore.

Report of the Select Committee of Rajya Sabha

The present government has introduced the Constitution (One Hundred and Twenty-second Amendment) Bill, 2014, in Parliament on December 19, 2014, which has paved the way to introduce Goods and Service Tax in India. The said Bill is passed by the Lok Sabha on 06.05.2015, however it is not yet passed by Rajya Sabha, but before that it is referred to the Select Committee of the Parliament, which has submitted its report on 22nd July 2015 to the Rajya Sabha.

Some of the salient features of the Select Committee of the Parliament are as under:

- The introduction of GST would mark a clear departure from the scheme of distribution of fiscal powers envisaged in the Constitution. The proposed dual GST envisages taxation of the same taxable event, i.e., supply of goods and services, simultaneously by both the Centre and the States.
- The Ministry of Finance, Department of Revenue stated that while “sale” is for consideration, “consignments” are in the nature of branch transfers. “Supplies” would constitute both “sale” as well as “consignment” transactions. Further, since GST charged on supply of goods and services would be VATable, this would not have any cascading impact. Since input tax credit would be available for GST paid on both sales as well as consignments in the course of inter-State trade, there would be no cascading impact of levying GST on supplies of goods and services in the course of inter-State trade. The Committee feels that since imposition of GST on the supplies of goods and services in the course of inter-State trade would not lead to cascading of taxes.
- It provides that goods and services on which GST is levied shall not be subject to any surcharge under article 271.
- The Committee strongly recommends that the word ‘band’ used in the proposed Article may be defined in GST laws. The Committee recommends the following definition of ‘band’: “Band” : Range of GST rates over the floor rate within which Central Goods and Service Tax

(CGST) or State Goods and Services Tax (SGST) may be levied on any specified goods or services or any specified class of goods or services by the Central or a particular State Government as the case may be.

- The term 'supply' would be defined in the various GST laws relating to CGST and SGST. Hence, the Committee feels that it would not be appropriate to insert the definition of supply in article 286.
- Views were expressed before the committee that in view of Article 246A empowering both Centre and States to levy tax on supply of goods and services, it is the view that the Clause (29A) of Article 366 may be considered for deletion as this would become redundant, however, there is nothing is said by the committee on this issue.
- The Committee feels that 'services' has been so defined [vide article 366 (26A)] in order to give it wide amplitude so that all supplies that are not goods can potentially be covered within the ambit of services and no activity remains outside the taxable net. This would also minimize disputes.
- The Committee is of the view that the entry in the list II- State List empowers the State Government to make laws in respect of the subjects mentioned therein. The Committee is also of the considered view that taxes on electricity and water have been treated separately from taxes on other goods and services in the Constitution. Entry 53 of the List II (State List) deals with taxes on sale or consumption of electricity, and this entry is not being touched by the Constitution (122nd Amendment) Bill, 2014.
- The Committee also noted the rationale for the provisions relating to alcohol for human consumption and tobacco as provided by the Department of Revenue.
- The Committee feels that the provision of 1% additional tax in its present form is likely to lead to cascading of taxes. Therefore, the Committee strongly recommends that in the concerned GST law, an explanation should be given that for the purpose of Clause 18, the word 'supply' would mean: Supply: "All forms of supply made for a consideration".
- The Committee feels that it would be too early to presume as to whether the price levels will go down or up in the post GST era. What has to be seen and watched by the Government with eyes open is whether the benefit, if any, arises would certainly be passed on to the consumers or not. Hence, the Committee feels that at the most if price stability is achieved it would serve the very purpose of GST in the entire country as inflation, nowadays has not left even a single field untouched.
- The Committee recommends that to be internationally competitive, the GST rate for banking industry should be minimum.
- The Committee feels that although the GST Council has been entrusted with the task of fixing the rate including floor rates with bands in mutual consent with other State Governments who are part and parcel of the Council. But implementation of GST in other countries has shown GST rate is a very important factor in earning the trust of the consumers. If the GST rate is kept high, it will surely erode the confidence of the consumers badly and may lead to high inflation. Therefore, the Committee is of the considered view that while fixing the rate, the GST Council may opt for a broad base and moderate rate as it is an

essential feature of a good tax system and as far as possible multiplicity of tax rates may be avoided.