

TAX Bulletin

November, 2017 Volume-4



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”



VISION STATEMENT

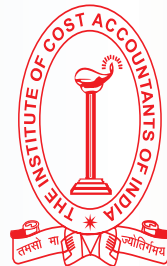
“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

Objectives of Taxation Committee:

1. Preparation of Guidance Note and Analysis of various Tax matters for best Management Accounting Practices for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit suggestions to the Ministry from time to time for the betterment of Economic growth of the Country.
4. Evaluating opportunities for CMAs to make effective value addition to the tax-economy

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FROM THE DESK OF THE CHAIRMAN

Dear Colleagues,

Namaskar and Best wishes,

In continuing my endeavour to release fortnightly Tax Bulletin, I am presenting before you the 4th volume. I am acknowledging the support of resource persons those are despite of their busy schedule contributing their time and expertise to make the Bulletin meaningful and acceptable. I am in receipt of new ideas and suggestions to improve our Bulletin. Tax Research Department is continuously working on it.

Hope, this Bulletin will definitely provide an input on the burning issues like latest tax rulings on both Direct and Indirect Taxation, notifications, circulars, Press release in addition to the articles presented by the eminent Tax experts of the Country.

We are in the process of making GST helpdesk IT based and automated to resolve the queries in a definite time schedule and in generating the FAQ's on monthly basis. The outcome of the GST helpdesk will be ornamented in the Taxation portal to act as a ready reckoner for the members and other stakeholders.

By this date 6 Webinars have been presented by experts and we are getting positive feedbacks in terms of quality and number of participants. The Committee has planned to conduct more and more webinars on the current and typical issues of the Taxation, on regular basis to meet the reach of members placed in remote areas.

Very soon, we are going to launch Certificate Course on GST, which will definitely increase the competency and sustainability of the Members.

On behalf of the Institute, I have attended meeting called by Invest India(Ease of doing business) to present the Challenges before the entrepreneurs in implementation of GST. Also I have met Ministry of Micro, small and Medium Enterprise, Government of India, to discuss about opening of GST facilitation centres at each district level PAN India.

The Taxation Committee has submitted good number of suggestions from time to time to GST Councils on the problem faced by the stake holders.

I Place on record the efforts extended by Resource persons in giving their contribution for the Pre Budget Memorandum 2018-19 submitted to the Government. I also place on record the participation of chapters, Members and other stakeholders those have contributed for the Pre Budget Memorandum 2018-19.

I am very much confident that the stake holders, Members and Team TRD executives will continue their support and best efforts.

Thanking You,
With sincere regards

CMA Niranjan Mishra
16th November 2017

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RESTRICTION ON CASH TRANSACTIONS UNDER INCOME TAX ACT

CMA NIRANJAN SWAIN

Senior General Manager (Finance), Odisha Power Generation Corporation Ltd

Slowly and gradually, the Indian economy is getting digitized and ultimately moving towards a cashless economy. Electronic transactions ensure a clear money trail and make it very difficult for tax evaders. Many of provisions that existed and introduced from time to time in Income tax act, putting restrictions on cash transactions. The new provisions introduced are the result of the proposal submitted by Supreme Court's constituted Special Investigation Team in July, 2011. The objective of imposing restrictions on cash transactions is to curb the flow of domestic black money which is not only adversely affecting the revenues of the Government but is also affecting the investment for productive purposes, because most of the black money is transacted in cash, it remains unaccounted and quite a sizable amount remains unproductive and is stored in the form of cash or remains invested in low priority investments such as gold, jewellery etc. The restrictions are intended to move towards a less cash economy and to reduce generation and circulation of black money.

In a bid to curb black money as well as to limit the number and amount of cash transactions, the government has come out with some new provisions and related rules and prohibited some types of cash payments in the Finance Acts. The effects of restrictions under provisions of income tax act are as follows.

- Restrict cash transactions which results disallowances of expenses or deduction under chapter VIA of income tax act in computation of taxable income and allowing deduction to incentivise better compliance.
- Penalising cash transactions above threshold limits to create effective deterrence

Few of the provisions under income tax act and relevant income tax rules are given below:

Sl. No.	Transactions/ relevant sections under income tax act	Provisions at a glance	Consequences in violation of Provisions related to for cash transaction/ Penalty
1	Exemption of Income in the hands of political Parties - Section 13A	Political parties which is registered with the Election Commissioner of India, are exempt from paying income tax. To avail exemption political parties are required to submit a report with Election Commissioner of India and furnish details of contribution received in excess of ₹ .20,000 from any person. As amended in Finance Act 2017, to discourage cash transaction and to bring transparency in the source of funding to political parties, the amendments have been made.	The income to the extent will not be exempted. If return of income as required u/s 139(4B) is not submitted or if return is submitted belatedly that is after the due date, exemption u/s 13A will not be available.

		<p>(i) No donation of ₹ .2,000 or more is received otherwise than by an account payee cheque/draft/ use of electronic clearing system through a bank account or through electoral bonds .</p> <p>(ii) Political parties keeps and maintains such books of accounts to satisfy the Assessing Officer and such accounts to be audited by an Accountant as prescribed under income tax act.</p> <p>(iii) Income tax return to be filed under section 139(4B) & within time limit prescribed under section 139(1).</p>	
02	Disallowances of Capital Expenditures, depreciation and investment allowances on cash payments – Section 35AD / Section 43(1).	<p>Section 35AD was introduced with effect from the assessment year 2010-11 to provide for investment linked tax incentives. Under the provisions if certain conditions are satisfied, the business assessee engaged in the specified business are eligible for deduction @ 100% (few cases weighted deduction @ 150%) of the capital expenditure incurred wholly and exclusively for the purpose of such specified business carried on in the previous year.</p> <p>Prior to Finance Act 2017, there was no restriction on deduction of capital expenditure as stated above in case acquisition of any capital asset in any mode of payment. To discourage cash payment for purchase of capital assets, section 35AD and section 43(1) have been amended with effect from the assessment year 2018-19 as follows:</p> <p>(i) No deduction under section 35AD shall be allowed in respect of payment or aggregate payment per day made to a person against such expenditure otherwise, than an account payee cheque / draft / use of electronic clearing system through a bank account exceeds ₹ .10,000.</p> <p>(ii) Section 43(1) is amended to provide that where an assessee incurs any expenditure for acquisition of any asset in respect of which a payment or aggregate payment made to a person in a day, otherwise than by cheque or bank draft or electronic clearing system exceeds ₹ .10,000/-, such payment shall be ignored to determine the actual cost of such asset</p>	<p><i>(i) Deduction u/s 35AD shall not be available.</i></p> <p><i>(i) Will not form part of “actual cost” u/s 43(1) and consequently depreciation u/s 32 and investment allowance u/s 32AD pertaining to such payment cannot be claimed.</i></p>
3	Payments exceeding certain sum made otherwise than by account payee cheques or bank drafts etc - Section 40A(3) and 40A(3A).	<p>Prior to amendment of Finance Act 2017, expenditure incurred (which is otherwise deductible under the other provisions of the act for computation of income from business and profession) and payment made to a person in a day exceeds ₹ .20,000 (₹ .35,000 in the case of payment for plying, hiring or leasing of goods carriage) otherwise than by an account payee cheque or account payee demand draft, such expenses are not allowable as deduction under Section 40A(3) in computation of income from business and profession. However few exceptions are provided by Rule 6DD of income tax rules. This resulted increase in taxable income from</p>	<p><i>No deduction is allowable in computation of income from business or profession in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by a crossed account payee cheque or an account payee bank draft /use of electronic clearing system through a bank</i></p>

		<p>business or profession.</p> <p>In order to disincentives cash transactions, section 40A(3) has been amended and limit of cash payment per day to a person has been reduced from ₹ .20,000 to ₹ .10,000 from assessment year 2018-19. However no changes to the monetary limit of ₹ .35,000 has been made in the case of payment for plying, hiring or leasing of goods carriage which was effective from October 2009. The disallowances to be applicable if the payment made in a day to a person otherwise than an account payee cheque/draft/use of electronic clearing system through a bank account.</p> <p>As per section 40A(3A), the restriction is also applicable</p> <ul style="list-style-type: none"> • If the tax payer had claimed a deduction in respect of any expenditure relation to any previous year. • Payment to such expenditure is made during the current year. <p>If during the current year payment made in a day otherwise than by an account payee cheque or account payee demand draft / use of electronic clearing system through a bank account exceeds ₹ .10,000. This monetary limit has also been reduced from ₹ .20,000 to ₹ .10,000 from the assessment year 2018-19.</p>	<p>account exceeding ₹ 10,000/-.</p> <p>This results increase in taxable income, in computation of profits and gains from business or profession.</p>
4	Deduction in respect of Health Insurance Premium – Section 80D	<p>Deduction is allowable from Gross Total Income of a tax payer who is an Individual (may be resident / non-resident) / Indian citizen or foreign citizen) or a HUF (may be resident / non-resident) if</p> <p>(i) Payment made out of income chargeable to tax (ii) Payment should be made any mode other than cash (exception is payment for preventive health check-up)</p> <p>Regarding maximum limit of deduction please refer to the provision.</p>	<p>No deduction shall be allowed from gross total income, if health insurance premium made by the tax payer in mode of cash.</p>
5	Donation – Section 80G	<p>Under the existing provisions of section 80G, deduction under Chapter VIA of income tax act is not allowed in respect of donation made of any sum exceeding ₹ .10,000/-, if the same is not paid by any mode other than cash. Section 80G contains details of Donee, maximum limit and deduction as a % of net qualifying amount for deduction from Gross Total Income (GTI) to arrive at Taxable Income.</p> <p>In order to provide cash less economy and transparency, section 80G has been amended by Finance Act 2017, so as to provide that no deduction shall be allowed under the section 80G in respect of donation of any sum exceeding ₹.2,000/- unless such sum is paid by any mode other than cash.</p>	<p>No deduction is allowed under Chapter VIA of income tax act from Gross Total Income if Donation paid in cash exceeding ₹.2,000.</p>

6	Donations for scientific research or rural development - Section 80GGA	An Assessee (other than an assessee whose Gross Total Income includes income chargeable under the head "profits and gains of business or profession") is entitled to deduction in respect of certain donations for scientific, social or statistical research or rural development programme or for carrying out an eligible project or National Urban Poverty Eradication Fund shall be allowed (Subject to certain conditions). Such donation can be given in cash, or by cheque or draft. However no deduction is allowed in respect of cash transaction/contribution exceeding ₹.10,000 from the assessment year 2013-14	100% of donations or contributions made other than cash only is allowable as deduction. No deduction shall be allowed if contribution is paid in cash in excess of Rs.10,000.
7	Donations by companies / any person to political parties. - Section 80GGB / Section 80GGC	Any sum contributed by an Indian company to any political party or an electoral trust is deductible while computing taxable income. From the assessment year 2014-15, no deduction shall be allowed in respect of any sum contributed by way of cash.	No cash payment allowed as deduction in computation of taxable income. Non deduction results increase in tax payable.
8	Prohibition on acceptance of cash loans, deposits, etc. - Section 269 SS	<p>As per provisions section 269SS, a person shall not accept any loan or deposit or "specified sum" from any other person otherwise than by an account payee cheque or account payee bank draft (or use of electronic clearing system through a bank account) if,</p> <p>(a) the amount of such loan or deposit or the aggregate amount of such loan and deposit ; or</p> <p>(b) on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid and the amount or the aggregate amount remaining unpaid ; or</p> <p>(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),</p> <p>is ₹ .20,000 or more:</p> <p>The limit of ₹ .20,000 will also apply to a case even if on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from such depositor is remaining unpaid and such unpaid amount along with the loan or deposit to be accepted, exceeds the aforesaid limit.</p> <p>"Specified Sum" means any sum of money receivable whether as advance or otherwise, in relation to transfer of an immovable property, whether or not transfer takes place.</p>	<p>Section 271D of Income Tax Act 1961 provides that if a loan or deposit is accepted in contravention of the provisions of section 269SS, then a penalty equivalent to the amount of such loan or deposit, so taken or accepted, may be levied by the Joint commissioner.</p> <p>However by virtue of section 273, the above penalty is not leviable if the assessee proves that there was a reasonable cause for the failure in compliance of the provisions</p>
9	Prohibition on repayment of loans or deposits in cash - Section 269T	It provides that any branch of a banking company or a cooperative society, firm or other person shall not repay any loan or deposit made with it or any specified advance (any sum in nature of advance , by whatever name called in relation to transfer of an immovable property, whether or not such transfer takes place) received by it otherwise than by an account payee cheque or account payee bank draft drawn in the name of	Section 271E of Income Tax Act 1961 provides that if a loan or deposit is repaid in contravention of the provisions of section 269T then a penalty equivalent to the amount of such loan or deposit repaid may be levied by

		<p>the person (or use of electronic clearing system through a bank account), who has made the loan or deposit, if</p> <p>(a) The amount of the loan or deposit together with interest is ₹ .20,000 or more, or</p> <p>(b) The aggregate amount of loans or deposits held by such person, either in his own name or jointly with other person on the date of such repayment together with interest, is ₹.20,000 or more.</p>	<p>the Joint commissioner.</p> <p>However by virtue of section 273, the above penalty is not leviable if the assessee proves that there was a reasonable cause for the failure in compliance of the provisions</p>
<p>The Finance Act, 2015 amended Section 269SS and Section 269T to include transactions in immovable property in order to curb black money circulation.</p> <p>As per proviso of section 269SS and section 269T, section is not applicable on any loan or deposit taken or accepted from:-</p> <p>(a) Government (b) any banking company, post office savings bank or co-operative bank (c) any corporation established by a Central, State or Provincial Act. (d) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) (e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.</p>			
10	Restriction on Cash Transactions – Section 269ST	<p>With a view to promote digital economy and create a disincentive against cash economy, a new section 269ST has been inserted in the Income-tax Act, 1961(the Act) vide Finance Act, 2017. The said section inter-alia prohibits receipt of an amount of two lakh rupees or more by a person, in the circumstances specified therein, through modes other than by way of an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account. It is applicable whether the recipient person is a seller of goods or provider of service transferor of capital assets or any other person.</p> <p>It prohibits receipt of an amount of ₹ 2 lakh or more by a person,</p> <p>(i) In aggregate from a person in a day (Example: if a person receives ₹ 2. 25 lakhs in cash against two different invoices raised for the service provided/goods supplied amounting to ₹ 1 lakhs and ₹ 1.25 lakhs). or</p> <p>(ii) In respect of a single transaction. (Example: If there is a single invoice for service provided/goods supplied amounting to ₹ 2.90 lakhs against which cash has been received on different days for ₹ 1.6 lakhs and ₹ 1.30 lakhs) or</p> <p>(iii) In respect of transactions relating to one event or occasion from a person. (Example: If birth day celebration is one occasion and a person receives amount of ₹ 2.50lakhs)</p> <p>(iv) Otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account.</p>	<p>If any person receives any amount contravention of the provision of section 269ST, shall be liable to pay penalty of a sum equal to the amount of such receipt.</p> <p>However, penalty is not leviable by the Joint Commissioner if it is proved by such person that there is a good and sufficient reason for such contravention.</p>

		<p>Provisions of this section shall not apply to any receipt by</p> <p>(i) Government/any banking company, post office savings bank or co-operative bank;</p> <p>(ii) Transactions of the nature referred to in section 269SS – i.e. acceptance of Loan, deposits etc,</p> <p>(iii) Such other persons or class of persons or receipts etc.that may be notified by the Central Government.</p> <p>(iv) Persons from whom the loan or deposit is taken or accepted and if the person by whom the loan or deposit is taken or accepted are both having Agricultural Income and neither of them has any Income chargeable to Tax.</p> <p>(v) Any corporation established by a Central, State or Provincial Act</p> <p>It is further clarified that the receipt of one installment of loan repayment in respect of a loan shall constitute a ‘SINGLE TRANSACTION’ as specified in clause (b) of section 269ST of the Act and all the installments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions section 269ST.</p>	
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It may be noted that the specified mode of payment namely, ***crossed account payee cheque or draft as stated in the relevant sections above*** has been expanded by Finance Act 2017 to include **any payment through the use of electronic clearing system through a bank account**. Such a clearing system may include Real Time Gross Settlement (RTGS), credit card or debit card payments and even payments through the Aadhaar Card System.

Promotion of digital payment to an eligible assessee covered in section 44AD:

The existing provisions of section 44AD of income tax act, *inter-alia*, provides for a presumptive income scheme in case of eligible assessee (individuals, HUFs and firms excepting LLPs) carrying out eligible businesses. As per provisions under above scheme, in case of an eligible assessee engaged in eligible business having total turnover or gross receipts not exceeding two crore rupees in a previous year, a sum equal to eight per cent of the total turnover or gross receipts deemed to be his business income chargeable to tax under the head "profits and gains of business or profession". Amendment provisions in Finance Act provides for **lower presumptive profit rate of 6% on turnover realized in account payee cheque or DD or electronic clearing system through a bank account on or before due date for filing Income Tax Return**.

The amendment is made in Finance 2017 (effective from assessment year 2017-18) in order to promote

digital transactions and to encourage small unorganized business to accept digital payments by reducing the existing rate of deemed total income of 8% to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode. Assessee availing presumptive scheme under section 44AD must keep in view the provisions of section 269ST (as stated above) as also provisions of section 206C(TCS) while accepting cash payments/advances from customers.

While concluding, it may be noted that, by making few provisions under income tax act are not only measures to eliminate black money. No doubt a tax payer is required to adhere to all the provisions of income tax for tax compliances and to get tax benefits. But at the same time, more innovations will be required to route transactions through the banking system. As more transactions go through banking channels, reporting of income and tax compliance will improve leading to higher tax revenues. Higher tax revenues would, ideally, lead to lower tax rates, which will benefit all tax payers.



GST UPDATE FOR EOU/STP/EHTP/BTP UNITS

CMA ASHOK B NAWAL

Council Member

When GST was implemented w.e.f. 1st July 2017, EOU, STP, EHTP, BTP Units, were at par with normal Domestic Unit as far as GST is concerned. However, Notification Number. 59/2017 Cus. dtd 13th June 2017 was amended for exempting Basic Customs Duty (BCD) on imports by EOU and amending notification No. 52/2003 Cus. dtd/ 31.03.2003 as amended and Basic Custom Duty saved on imports of raw material was required to pay on DTA Sale. Thereafter, EOU, STP, EHTP, BTP Units were adversely affected and they were facing lot of liquidity crunch due to high requirement of working capital. The difficulties faced by EOU, STP, EHTP, BTP Units were considered by GST Council in their meeting dtd. 6th October 2017 and subsequently number of notifications and circulars are issued so as to remove the difficulties faced by such units.

Sr. No.	Particulars	Update	Notification No / Circular No / Order No	Author's Comments
1	EOU -Import Procurement	EOUs will be entitled to import the goods without payment of IGST upto 31.03.2018	Notification 78/2017-Cus dated 13.10.2017	No blockage of working capital to the extent of IGST on import
2	Supplies to EOU	Supply of goods by a registered person to Export Oriented Unit is notified as Deemed Export	Notification No. 48/2017-Central Tax dated 18.10.2017	Supplier can claim the refund of GST rather than recipient to avail the ITC and apply for the refund. Thereby, there will be a reduction in working capital.
3	Deemed Export Benefit	Refund of GST paid on supplies to EOU can be claimed by Supplier or by EOU unit	Rule 89 (1) of CGST Rules dated 30.10.2017	Purchase order needs to be revised to that extent.
4	No IGST on Advance Authorization / EPCG	Import against EPCG / Advance authorisation will exempted from payment of IGST till 31.03.2018	Notification 79/2017-Cus dated 13.10.2017	Supplier can avail advance Authorization benefit (Saving of Import duty on imported inputs) since supplies to EOU can be considered for fulfillment of export obligation. Material prices can be negotiated with the supplier to EOU accordingly.

Sr. No.	Particulars	Update	Notification No / Circular No / Order No	Author's Comments
5	EOU - Local Procurement	<p>Procedure for procurement of goods by EOU from domestic supplies has been defined.</p> <ol style="list-style-type: none"> 1. EOU to give prior intimation in a prescribed proforma in "Form-A" <ol style="list-style-type: none"> a. To registered Supplier, b. Jurisdictional GST officer in charge of such registered supplier and c. Own Jurisdictional GST officer 2. Supplier to supply the goods on Tax Invoice 3. EOU to endorse the tax invoice and send a copy of the endorsed tax invoice to: <ol style="list-style-type: none"> a. Registered Supplier, b. Jurisdictional GST officer in charge of such registered supplier and c. Own Jurisdictional GST officer 4. endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU 5. EOU to maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B. 6. EOU to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit 7. Digital copy of Form - B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive 	CGST Circular No 14 dated 06.11.2017	<ol style="list-style-type: none"> 1. Discussion to be initiated with Suppliers for effective compliance and to decide who will claim the refund and PO terms to be defined accordingly 2. System to be set to generate Form A and Form B for local procurement 3. Process to be set for intimation and compliance
6	GST Registration	Service providers providing interstate supplies of services and having aggregate turnover upto Rs. 20 lacs or Rs. 10 lacs in case of special category states are exempted from obtaining GST registration	Notification 10/2017 dated 13.10.2017 - IGST	
7	GST on advance received for goods	Supplier of goods is not liable to pay tax on receipt of advance in case his aggregate turnover is below Rs. 1.50 Crore in preceding year or likely to be below said limit for newly registered person	Notification No. 40/2017 – Central Tax dated 13.10.2017	Registered Supplier of services is liable to pay tax even on advances received irrespective of amount of turnover but it is very difficult to ascertain the turnover of supplier who are exempted from payment of GST on advances having turnover less than Rs. 1.5 Cr in preceding year

Sr. No.	Particulars	Update	Notification No / Circular No / Order No	Author's Comments
8	Exemption for Purchases from un-registered dealer	Registered person need not to pay CGST and SGST on any supplies of goods or services received from unregistered person. This exemption effective from 13 October 2017 upto 31 March 2018	Notification 38/2017- Central Tax (Rate) dated 13.10.2017	No more compliance for GST on RCM purchases. There will be no outflow of cash on account of RCM and thereby, accumulation of credit will be lesser resulting into the less working capital requirement and application of refunds. Further, compliances on account of creating invoices on RCM is reduced.
9		Registered person need not to pay IGST on any interstate supplies of goods or services received from unregistered person. This exemption effective from 13 October 2017 upto 31 March 2018	Notification 32/2017 dated 13.10.2017 - IGST Rate	
10	Revised Date of GST Returns	1. GSTR-2 of July 2017 = 30.11.2017 2. GSTR-3 of July 2017 = 11.12.2017 3. GST TRAN - 01 (Original and revised) = 30.11.2017 4. GST REG - 26 = 31.12.2017 5. GST ITC - 04 = 30.11.2017 6. GST CMP - 03 = 30.11.2017	1. Notification No. 54 /2017 2. Notification No. 54 /2017 3. Order no. 07/2017 and Order no. 08/2017 - Central Tax 4. Order no. 06/2017- Central Tax 5. Notification no. 53/2017 - Central Tax 6. Order no. 05/2017- Central Tax	Returns to be filed immediately without waiting till the last date
11	Refund of GST paid on Exports	Refund of GST paid on export has been started from 10.10.2017	-	Refund has been initiated on the basis of GSTR 3B as well GSTR1. This needs to be applied immediately.
12	DTA Sale	If Sale of finished goods / scrap/ by product / rejected goods is made in DTA in accordance with Para 6.8 of the Foreign Trade Policy then Basic Custom Duty forgone will have to be paid before clearance of the goods in DTA.	Notification No. 59/2017 Cusdtd. 30.06.2017	For making a DTA Sale under para 6.8 (a) to (m) of FTP then it is important to have standard input output norms fixed (SION) or Adhoc Norms to be fixed and based on such norms, Basic Customs Duty will have to be calculated on input contents on such goods and pay through GAR-7, Account Code 00370002 & Education Cess thereon 0037 00 66& Higher & Secondary Ed. Cess is 00370068to be deposited in the bank before effected in DTA Sale.

Notification No. 48/ 2017 & 49/2017 of Central Tax was issued for notifying the Deemed Exports and their entitlement of claiming refund of GST paid on inputs& capital goods. **However, it is not applicable for input services.**

Central Tax Officers have issued the Circular No. 14/2017 dtd. 6th November 2017 was issued so as to introduce the procedure of claiming refund. If refund of GST paid to be obtained by either supplier of **EOU, STP, EHTP, BTP Units or such recipients will have to follow the described procedure of filing intimation in prescribed Form A to the Jurisdictional Central Tax Officers and also submit Form B on monthly basis. Further, tax invoice on which refund is required to be paid will have to be endorsed by Central Tax Officers having Jurisdiction over such recipient EOU, STP, EHTP, BTP Units.**

As a matter of fact, in the GST Era, it was envisaged that there is no interface of the GST Officers, but if refund has to be filed on such GST paid on inputs and capital goods then interface is unavoidable and it will add lot of hassles on account of bureaucracy and other facts, which need not to be written

It is advisable, to claim ITC on GST paid and export under the claim of refund on payment of output tax on exports. Medicine given by the govt. by way of setting such procedure is worse than the disease. Anyway, **EOU, STP, EHTP, BTP Units will have to either arrange for higher working capital requirement or face the bureaucracy.**



REVERSE CHARGE – A SNEAK PEEK

CMA B MALLIKARJUN GUPTA

SME, Speaker, Author & Advisor on GST

In the normal course of business, the taxes are paid by the buyer, and the seller collects the taxes and remits the same to the tax authorities. This method of tax collection or levy is known indirect taxation. In cases when the person who derives any income like salaries, he pays the taxes directly, and it is known as direct taxes. There are few cases when the buyer pays the tax on behalf of the seller and such tax is known as reverse charge or use tax or self-assessed tax. Governments across the globe opt for reverse charge for the following reasons

- a) To identify the business which from unorganized / unregistered taxpayers
- b) To ensure that all transactions also falling under the tax net
- c) To help them to make decisions with the tax laws as to bring in more products/services under tax net or reduce tax rates etc.,

The treatment or the process of payment of taxes under reverse charge is of two types:

- i) The buyer of the goods or services have to pay the tax first in cash and then utilize same for making payment of other taxes, i.e., availing input tax credit
- ii) There is no actual requirement to pay taxes directly, only an accounting entry for the tax liability and utilization / recovery is done

In all the case wherever reverse charge is applicable, the reporting has to be done separately either at the transaction level or in summary level in the various returns to be filed.

We had reverse charge in India under Service tax for inward supplies on a classified list of services and in VAT also few states have adopted reverse charge. Goods and Service Tax is introduced in India from 1st July 2017, and the basic idea is to increase the tax base of the taxpayers. In order to bring the transactions /

business in the unorganized sector to the organized sector, reverse charge has been introduced for goods and services in GST, unlike the erstwhile taxation where it was applicable only to services.

Reverse charge has been defined in Sub-section 98 of Section 2 of the CGST Act as “means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act”.

Reverse Charge in GST is applicable in the following two cases

- a) When goods or services or both procured from unregistered taxpayers
- b) For the specified list of goods and services notified by the government on recommendations of the GST Council.

Point “a” is referred in Sub-section 3 of section 9 of the CGST Act and point “b” is referred in Sub-section 4 of section 9 of the CGST Act.

As reverse charge is also applicable for supplier of goods under GST and the supplier of goods registered under the erstwhile regime Central Excise or VAT are not aware of it completely to provide some time for their understanding and implementation, the government has given a provision that reverse charge will be applicable only if the inward supplies is above Rs 5,000 per day wide Notification No 8 /2017 – Central Tax (Rate) dated 28th June 2017.

As reverse charge is a new concept and many of the small and first-time taxpayers were not able to understand and the adopt the same. Many representations have been received by the government for differing/deletion of this provision.

Basis on these, in the 22nd GST Council Meeting, held on 6th Oct 2017, the GST Council has taken a decision to differ the reverse charge provisions on the inward supply of goods or services from the unregistered taxpayers till 31st of March 2018. The same was notified wide Notification No 38/2017 – Central Tax dated 13th Oct 2017.

The said notification is only for the inward supply from the unregistered taxpayers only, meaning that the provisions of Sub-section 3 of Section 9 of the CGST Act will be applicable for the inward supply of notified goods or services. It also means that the inward supplies from the unregistered taxpayers will not be liable for reverse charge till 31st Mar 2018.

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.8/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 680(E), dated the 28th June, 2017, namely:-

In the said notification, the proviso under Paragraph 1 shall be omitted

2. The exemption contained in the notification No. 8/2017-Central Tax (Rate) dated the 28th June, 2017 as amended by this notification shall apply to all registered persons till the 31st day of March, 2018.

A careful review of the notification No 38/2017 – Central Tax dated 13th Oct 2017 we observe that there is no usage of the words “Retrospective,” it means that the notification is from a perspective in nature. Moreover, till date, all the notifications issued under GST for rate change or for LUT or additions of items under reverse charge are not in a retrospective in nature.

The taxpayers have to consider all the transaction, i.e., on inward supplies from the unregistered taxpayers till the date of Notification No 38/2017 – Central Tax dated 13th Oct 2017, compute reverse charge accordingly, account it, report it in GSTR – 3B for the month of October and pay the reverse charge liability. Once the reverse charge liability is discharged, the input tax credit can be availed and utilized it for the payment of GST liability.

All such transaction summarized and reported in GSTR – 3B have to be shown in GSTR -2 for the month of October 2017.

This notification is only perspective in nature and not retrospective in nature.

A sneak peek on reverse charge/use tax across the globe

1. United States of America

In America Use tax compliments the Sales Tax. Use tax is normally levied in most of the states on purchases made outside the state and brought into the state. This tax is basically levied to protect the interests of the local manufactures/traders. In some cases, the buyer/purchaser is required to pay the tax if the supplier defaults to pay the tax. This is basically done to avoid tax evasion. The tax so paid can be availed as credit by the buyer. Use tax is imposed on consumers of tangible personal property that is used, consumed, or stored in the state where it is consumed.

2. Venezuela

VAT is applicable on services also. Self-Assessed tax or reverse charge is applicable if the service receiver receives the services from a service provider who is non-resident. In such cases, VAT on those services have to be paid by the service receiver /buyer of services. Service receiver can take credit for such taxes paid.

3. Mexico

Services are taxed in Mexico under VAT, which is a federal tax. In case of import of services or sale of intangible goods, VAT has to be paid by the service receiver/buyer. The amount of tax can be used for offset/credit can be taken while paying the liability for VAT.

4. Nicaragua

In Nicaragua, the requirements are different. VAT is applicable on exports also. VAT tax will be treated as a self-assessed tax if the buyer of the goods or services is not a VAT collector, i.e., registered under Nicaragua for VAT.

Self-assessed tax is applicable even in case if the supply of service is within Nicaragua or the use or enjoyment of property taxed, either supplied by a non-resident entity or individual or an individual resident, who are not VAT collectors, corresponding VAT will be self-assessed.

5. Panama

Services and goods are taxed under VAT. In case of import of services or intangible goods, VAT taxes are applicable, and these taxes are to be paid by the importer, i.e., buyer.

6. Paraguay

For import of services or intangible goods, VAT taxes are applicable. In these cases, VAT taxes are treated as self-assessed taxes and the buyer who is a local person is liable to pay VAT.

7. Peru

In the normal course of business, the supplier of taxable service is responsible for payment of VAT. This rule will not be applicable in cases where the supplier of services is a non-resident, VAT has to be self-assessed by the local consumer or user of services.

8. Argentina

In the normal course of business, the supplier of taxable service is responsible for payment of VAT. This rule will not be applicable in cases where the supplier of services is a non-resident, VAT has to be paid by the local recipient.

9. Colombia

The supplier is liable to charge and account for VAT on transactions except in case of import of services or non-tangible goods. VAT has to be paid by the buyer irrespective if he is registered or non-registered for VAT.

10. El Salvador

If the supplier of the non-tangible goods or services is a non-established entity (non-resident), VAT Tax has to be treated as a self-assessed and to be paid by the local taxpayer registered for VAT.

11. Guatemala

VAT taxes have to be paid by the local recipients in case of import of intangible goods or services as self-assessed taxes. In other cases, it has to be paid by the supplier of goods and services only.

For more information on self-assessed/reverse charge taxes in Latin American countries refer [here](#)

12. European Union

Reverse Charge or Self Assessed Tax is applicable in the European Union also. This is applicable in case of B2B sales between the European Union customer and non-European Union customer or e-commerce transactions.

The customer i.e. the buyer in the EU region has to pay the VAT tax on purchases made from other countries. The VAT tax will be treated as self-assessed or reverse charge tax by the customer.

In case of e-commerce transactions, which normally happen between business to business (B2B) the VAT taxes have to be paid by the customer as self-assessed taxes.

For additional information refer [refer](#)

13. Australia

Under Australian taxation for both indirect taxes under GST and VAT and also for direct taxes for withholding taxes reverse charge is applicable.

There is a mandatory reverse charge rule which broadly applies to suppliers of exempt services or real property (such as banks and life insurers). It requires these entities to reverse charge on the acquisition of services (and other intangibles) from offshore, where those supplies would be taxable if acquired in Australia. Where the reverse charge is applied, credit can then be claimed for any portion that is used to make taxable or GST-free supplies. This mandatory reverse charge does not apply to supplies that are 'connected with Australia' (see under Place of supply/taxation - general rule).

An optional reverse charge can also apply to services. In certain circumstances, the GST on taxable supplies made by non-residents can, with the agreement of the recipient, be reverse charged to the recipient. In simple terms, the GST on a taxable supply is payable by the recipient of the supply and not by the supplier if:

- the supplier is a non-resident;
- the supply is not made through a permanent establishment of the supplier in Australia;
- the recipient is registered for GST in Australia or required to be registered; and
- the supplier and the recipient agree that the GST on the supply is payable by the recipient.

For additional information can be accessed from [here](#)

14. Malaysia

If services are imported in Malaysia and consumed or used in Malaysia for business purpose, by a taxable person in Malaysia, then GST is applicable on reverse charge mechanism. Under this mechanism, the recipient of the imported services has to account for GST on the imported services as if he is providing the services himself and at the same time claim input tax accordingly. However, if the consulting company is not a taxable person, he has to account GST on the imported services incurred through GST-04

Organization for Economic Cooperation and Development (OECD) has given guidelines for levy of taxes on reverse charge basis for supply of services and intangibles cross-border transactions. It is commonly known as cross-border tax, and in India, it is known as Equalization Levy and applicable from 1st June 2016. Equalization Levy is also a reverse charge in nature and applicable under Income Tax Act.

The trade and business have to pay taxes under reverse charge in India or in other countries based on their legal framework and for this, we also need to have the proper accounting and software to implement this without any compliance issues along with requisite knowledge of the same.



PRACTICAL IMPLICATIONS OF WORKS CONTRACT UNDER GST LAW

SATYA S MAHASUAR

DM Finance, NALCO

Introduction:

GST rollout w.e.f 01st July 2017 was a planned event for ministry and department, but all most all business entity was expecting a delay and hence preparation was really half-hearted. But, the dream of getting a delayed rollout notification was converted to a nightmare, when its launching on scheduled day of 01st July was announced. The real examination with a entirely new syllabus was started without any such preparation and hence the result was as expected. The most important thing was how to manage the chorus activities of finance under such situations like- Payment to Contractors and Suppliers including small vendors, as there was nothing ready for accepting the challenges of this new taxation era, neither the system front nor the understanding at all user levels. However, with the passage of time, things are getting stabilised, GST requirements are getting factored in the applicable accounting system of the organization and slowly the new concepts are being digested at all levels. If we analyse this situation, nothing was abnormal and there was only lack of preparedness at both the end, which resulted into the inconveniences tolerated under compulsion across industries.

In this article, a small effort has been put-in to place the changes in Works Contract, its practical issues and challenges in during implementation and also post implementation.

Works Contract under Pre-GST:

- Works contracts consists of three kinds of taxable activities as per the current law.
- It involves supply of goods as well as supply of services. If a new product is created during the

works contract, then such manufacturer becomes a taxable event.

- As per the listings, the construction of the building, maintenance, and repairing of plant and machinery, installation, repair, alteration of any movable or immovable property comes under works contract.
- The details of the taxes under Pre-GST regime are shown below in Fig.1

Works Contract Activities	Tax
supply of goods	VAT (WCT)
supply of services	Service Tax
If a new product appears in the process of completing a works contract	Excise Duty

[Fig. 1]

So, Works Contract, being a single activity are taxed by different laws for its different activities. This causes a lot of confusion regarding treatment and taxability which has resulted many legal disputes in related to works contracts. GST has brought in much needed clarification to this issue in order to put an end to the uncertainty for the legislature.

Works Contract under GST:

Section 2 sub Section (119) of CGST defines Works contract means a contract, wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract and includes contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any **immovable property**.

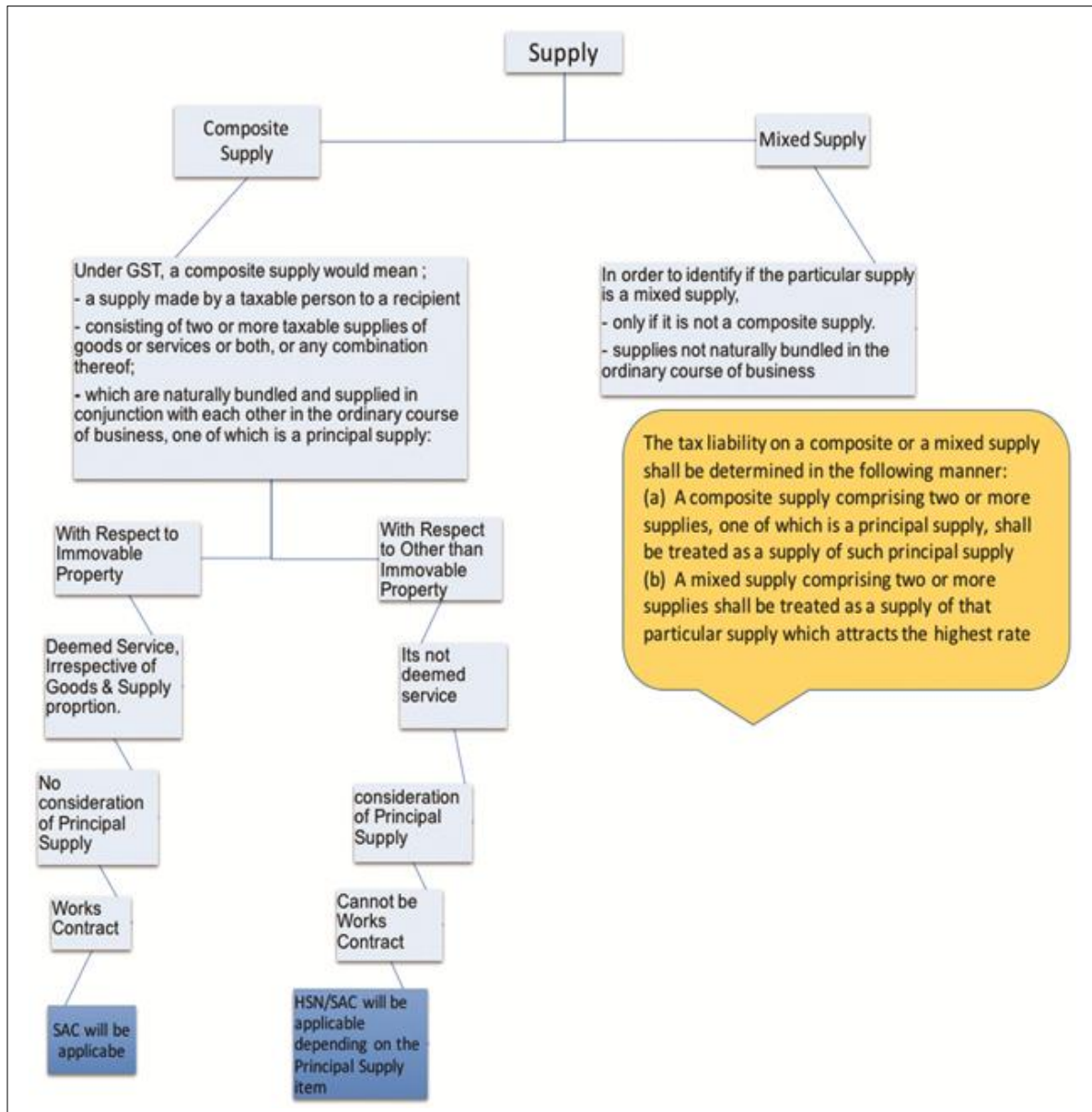
GST has removed the confusion regarding the tax treatment. This means **works contract will be treated as service** and tax would be charged accordingly (not as goods or part goods/part services).

This treatment of **works contract as service and not as supply of goods** has provided much needed clarification to the works contracts.

Points to Remember:

- Works Contract concept is attached to Immovable Property
- Works Contract is a Service, irrespective of Goods & Service proportion and hence SAC (Service Accounting Code) will be applicable.

Now, the linking of concept of Composite Supply with Works Contract and also the concept of Mixed Supply can be understood from the Diagram below in Fig.-2.



[Fig. 2]

Works Contract - GST provision:

Schedule II entry no. 5(b) and 6(a) [Section-7 of CGST Act'2017] talks about what will be treated as "Supply of Service", wherein Works contract has been specified.

Clause 5(b)

"Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by

the competent authority or before its first occupation, whichever is earlier.”

Analysis

- ✓ This clause covers works contract in relation to civil construction. Works contracts in relation to building, complex or any civil structure is **treated as supply of service if it is sold before completion of construction.**
- ✓ However, if **entire consideration on works contract has been received after issuance of completion certificate**, where required, by the competent authority or before its first occupation, whichever is earlier **than no GST is leviable on such supply as this become immovable property** and GST can't be levied on sale of immovable property.

Clause 6 (a)

The following composite supplies shall be treated as a supply of services, namely: -

(a) works contract as defined in clause (119) of section 2

Analysis

- ✓ This clause has already been explained above under the section “Works Contract under GST”.

Here, the most important aspect to be highlighted is that about the impact on the buyer of Real Estate due to GST. In Pre-GST scenario the Service tax on real estate transaction was 4.5% and set off was there for input service tax component and the state composite VAT was varying in different states within the range of (1-4)% on the total property value without any input tax benefit. In Post GST regime, residential construction services, will invite GST at the rate of 12 per cent (with Land value included) and 18% (if Land and Construction Services are separately identified), which will apply to developers selling residential units before completion of construction to the home buyers, where transaction costs increases with higher tax rates, but at the same time input credit is available on both, services and material. Property transaction costs will increase by 6% (with 12% GST), in case no input credit is passed on by developers. If developers pass on the input credit to buyers, the property price increase could be restricted to 1-2%. However, if the developers pass on the credits completely and bring down the base prices, then, home buyers may marginally benefit under the GST regime.

Works Contract - Applicable Tax Rate:

Initially, with the model GST Law, two types of rates were prescribed.

- 12%-Construction of a complex, building, civil structure or a part thereof, intended for sale to a buyer, wholly or partly. [The value of land is included in the

amount charged from the service recipient]. In case Land and Construction Services are separately identified, the applicable tax rate on services will be applicable @ 18%.

- Other works Contract - 18%

Further, following were the decisions taken by the GST Council in the 22nd meeting held on 6th October 2017 relating to Works Contract.

- Works contract services involving predominantly earth works (that is, constituting more than 75% of the value of the works contract) supplied to Central Government, State Governments, Local Authority, Governmental Authority or Government Entity shall be taxed at 5%.

- The reduced rate of 12% on specified works contract services supplied to the Central Government, State Government, Union Territory, Local Authority and Governmental Authority shall be extended to a Government Entity, where such specified works contract services have been procured by the government entity in relation to the work entrusted to it by the Central Government, State Government, Union Territory or Local Authority.

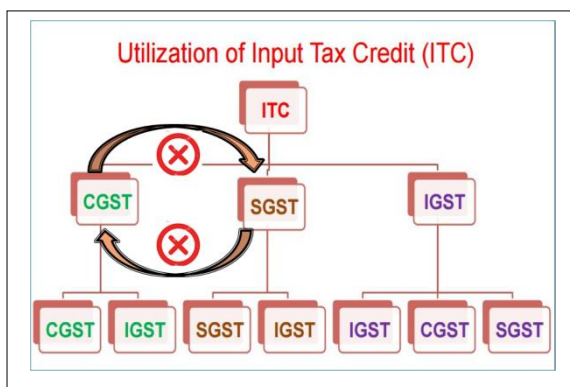
- GST shall be levied @ 12% on works contract services in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles.

Works Contract- Input Tax Credit (ITC):

Chapter V of CGST Rules, 2017 talks about Input Tax credit mechanism. One of the biggest advantages expected from the implementation of GST Act is that it would remove cascading effect by facilitating seamless flow of credit. GST Act aims at removing the restrictions placed in the present Cenvat credit rules on availment of credit which lead to break in the credit chain and consequent cascading effect which further leads to increase in cost of goods and services. Under GST, seamless tax credit flow has been ensured by providing for the availment of ITC to the purchasing dealer in respect of the GST paid by the supplying dealer.

ITC has been defined as credit of IGST/CGST/SGST charged on any supply of goods and or a service used or intended to be used in the course or furtherance of business and includes the tax payable under reverse charge. Registered taxable person shall be eligible to avail ITC credited to the e-credit ledger subject to condition prescribed without restrictions of availment.

The Input Tax Credit (ITC) would be permitted to be utilized in the following manner and as per the marshalling shown in the diagram below in Fig.-3



Credit Pools	SGST	CGST	IGST
SGST	1	x	2
CGST	x	1	2
IGST	3	2	1

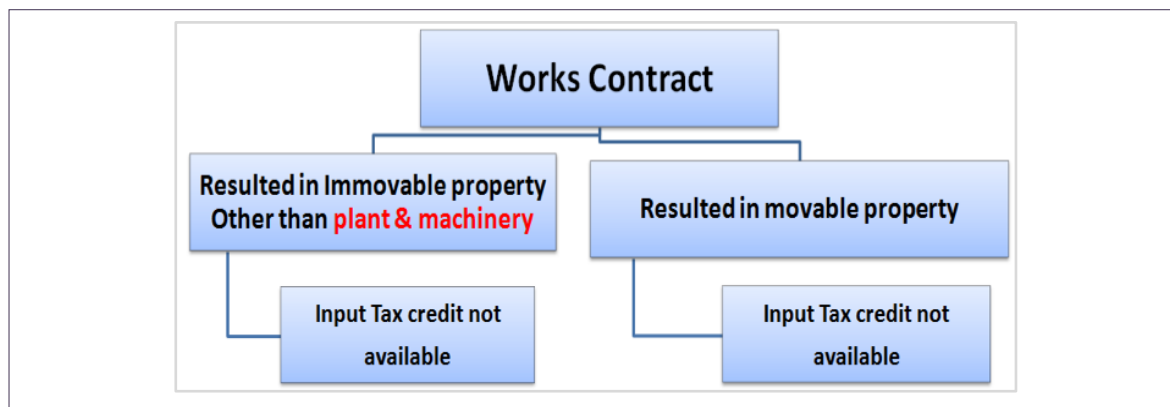
[Fig. 3]

Section 17 (5) (c) of CGST Act 2017: Input Tax Credit shall not be available in respect of the following, namely:

“works contract services when supplied for construction of an immovable property (other than Plant and Machinery) except where it is an input service for further supply of Works contract service” The restriction does not apply to plant and machinery and also in case the input services are further used for supply of Works Contract service under GST (Contractor can avail the ITC in respect of services availed from the sub-contractor).

The statement above makes it clear that Input Tax Credit **cannot be claimed by the recipient of works contract services when supplied for construction of an immovable property (other than plant and machinery)** except where it is an input service for further supply of works contract service.

The details relating to availability of ITC are summarized through a diagram below in Fig.-4.



[Fig. 4]

Works Contract - Important aspects:

- ✓ Under model law presently there is no abatement or exemption has been provided in relation to works contract.
- ✓ No RCM mechanism under GST for Works Contract.
- ✓ There is no TDS applicability has been notified so far.
- ✓ Composition Scheme is not applicable for Works Contract.

Works Contract - Practical checklists:

From Business Entity perspective:

- Existing or cut-over contracts as on appointed day need to be amended for factoring in the GST applicability and removing the tax applications of Service Tax, VAT (WCT) etc.
- The tax code flagging need to be changed in applicable accounting package. The tax code for ITC and Non-ITC works need to be separated for capturing the claims for ITC cases.
- GSTIN need to be captured in vendor master and its synchronization with the address of the Contractor need to be verified.

- GSTIN correctness needs to be checked from the GST portal (www.gst.gov.in) under “Search Taxpayer Tab”. GSTIN submitted by the party must appear in portal.
- The invoice submitted by the Contractor need to be verified for all the mandatory fields prescribed for invoice like- Invoice no.-maximum 16 alpha-numeric-special characters, the SAC code, description, GSTIN of both Supplier and Recipient and correct GST claim (CGST & SGST/IGST) along with the tax rate etc.
- SAC need to be captured in each transaction for getting the relevant details to submit the applicable return with HSN/SAC-wise summary.
- As the most important aspect for availing ITC is the payment of tax and submission of return by the Contractor to the department, hence the Company also need to ensure the fact that the tax paid to the Contractor has been deposited by him and applicable returns are duly submitted by the Contractor, otherwise the ITC availed by the recipient may need to be reversed. For this, the payment details may be sought from the Contractor and to be checked specifically for the Final Bill.
- Again, all the Contracts, wherein goods and services are involved and linked to immovable property, need to be brought into the ambit of works contract and to be treated as service, rather than paying tax for goods as per applicable HSN and for services as per applicable SAC.
- Finally, keeping in view the requirements of information for submitting GSTR-3B, GSTR-1 and GSTR-2 along with the Annual Return, the data capturing has to happen at transaction level and necessary reports need to be developed in accounting system. This will help for necessary reconciliation specifically for GSTR-2.

From Contractor perspective:

- Contractors are to be careful in each aspect, specifically for submitting the appropriate details in their Registration process and to know exactly what are the goods and services they are dealing along with their HSN and SAC respectively.
- Contractors not only provide their GSTIN to the Organisations they are working for, they also need to get the GSTIN details of the respective organisations.
- Invoicing by the Contractor to the Organisations, need to be in applicable format with the relevant details and need to ensure correctness of invoice number (to be continued serially). For adjustment of invoicing amount and corresponding tax necessary debit or credit note may be given and recorded. Invoices to be raised within 30 days of the completion of the work period.
- Contractors always need to check the taxable value, tax and Invoice value claimed and also the value paid by the contractee.
- Presently GSTR-3B is the mode for paying tax and Contractors are to pay the taxes of a month on or

before the due date. Most importantly, the Contractors are to claim ITC (Input Tax Credit) for necessary goods and services procured during the execution of the contract, so as to remain competitive in terms of Cost. However, ITC claim need to be through proper documentation and to be ensured that the Supplier of Goods and Services are also submitting their respective returns.

- Now under GST, all the processes like- Registration, Return and Refund etc. are through IT enabled platform, hence now Contractors are need to be acquainted with system driven accounting and data management.
- There are very simplified user manuals, videos and FAQs available in GST portal (www.gst.gov.in) under the “Help” Tab in front screen. Again, CBEC portal has also many specific simplified guidelines for understanding various concepts and processes.
- Finally, all professional institutes having help-line mail ID and telephone numbers to support the queries. Again, for any of the issue the GST helpdesk also may be contacted through mail ID: helpdesk@gst.gov.in and telephone number: 0120-488 8999.

Conclusion:

Change is the only permanent word in this competitive world. However, any change is always difficult to accept, as it takes us away from our comfort zone. But, to move quickly from the tag of developing economy to a developed economy, this Country has to pass through many such changes for creating a transparent, effective and conducive business atmosphere. Perhaps the changes in last few years in terms of New Companies Act, New Indian Accounting Standard (Ind AS) in line with IFRS including the recent GST rollout are right steps forward in this direction. As far as our topic “Practical Implications of Works Contract under GST Law” is concerned, is a mostly discussed area, as there are substantial changes in this area under GST regime. Hence, a structured and conceptual learning on the subject matter is highly essential as Works Contract involves a significant part of the business expenditure, be it capex or opex. Let’s accept the new challenges before us with an attitude to learn, de-learn and re-learn, so as to contribute efficiently and effectively to the organisation, we are working for and finally extend our sincerity towards Nation building.



GOODS AND SERVICES TAX NETWORK

CMA SANDEEP KUMAR

Chairman, CMA Club India

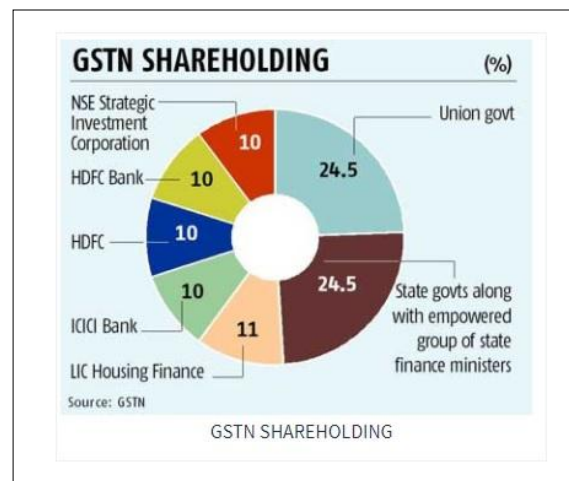
Goods and Services Tax Network (GSTN) is a non profit non-government company, which will provide shared IT infrastructure and service to both central and state governments including tax payers and other stakeholders. To become a trusted National Information Utility (NIU) which provides reliable, efficient and robust IT Backbone for the smooth functioning of the Goods & Services Tax regimen enabling economic agents to leverage the entire nation as One Market with minimum Indirect Tax compliance cost. It is a Section 8 of companies Act, non-Government private limited company. It was incorporated on March 28, 2013. The GST System Project is a unique and complex IT initiative. It is unique as it seeks, for the first time to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States. GST being a destination based tax, inter- state trade of goods and services (IGST) would need a robust settlement mechanism amongst the States and the Centre. This is possible only when there is a strong IT Infrastructure and Service back bone which enables capture, processing and exchange of information amongst the stakeholders including tax payers, States and Central Governments, Accounting Offices, Banks and RBI.

Who Owns the GSTN?

The GSTN is owned by the Government and Sector. The authorised capital of GSTN is Rs. 10 crore, in which the Government of India holds 24.5% equity in GSTN and all States of the Indian Union, including NCT of Delhi and Puducherry, and the Empowered Committee of State Finance Ministers (EC), together hold another 24.5%. Balance 51% equity is with non-Government financial institutions. The Company has been set up primarily to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST). Rests of the shares

of the GSTN are with private banking companies in the following pattern:

- Central Government – 24.5%
- State Governments – 24.5%
- HDFC – 10%
- HDFC Bank – 10%
- ICICI Bank – 10%
- NSE Strategic Investment Co. – 10%
- LIC Housing Finance Ltd. – 11%



Mission of GSTN

- Provide common and shared IT infrastructure and services to the Central and State Governments, Tax Payers and other stakeholders for implementation of the Goods & Services Tax (GST).
- Provide efficient Backend Services to the Tax Departments of the Central and State Governments on request.
- Provide common Registration, Return and Payment services to the Tax payers.

- d. Develop Tax Payer Profiling Utility (TPU) for Central and State Tax Administration.
- e. Partner with other agencies for creating an efficient and user-friendly GST Eco-system.
- f. Assist Tax authorities in improving Tax compliance and transparency of Tax Administration system.
- g. Encourage and collaborate with GST Suvidha Providers (GSPs) to roll out GST Applications for providing simplified services to the stakeholders.
- h. Carry out research, study best practices and provide Training and Consultancy to the Tax authorities and other stakeholders.

Major Function of GSTN

The following are major functions of the GSTN:

- a. Facilitating **registration** of vendors
- b. E-filing and forwarding the **returns** to Central and State tax authorities;
- c. Computation and settlement of IGST;
- d. Matching of tax **payment** details with banking network;
- e. Providing various MIS reports to Governments.
- f. Analysis of taxpayers' profile; and
- g. Running the matching engine for input tax credit

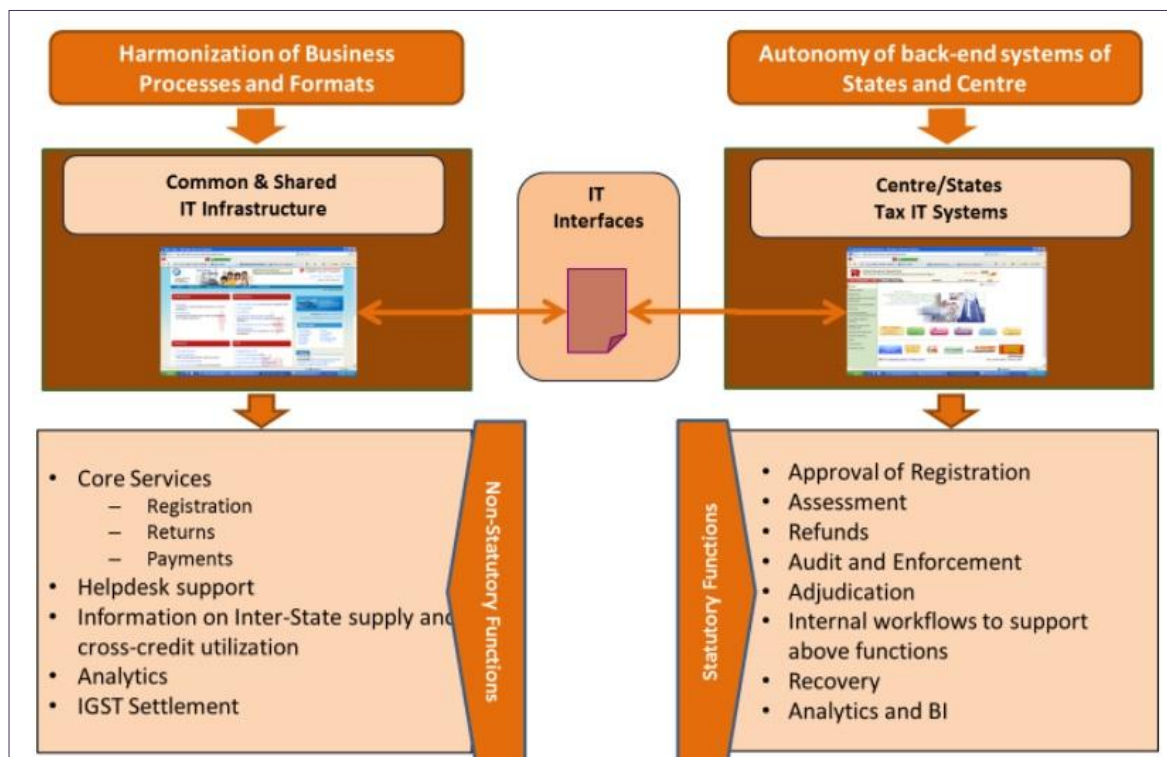
Board of Directors of GSTN

1. Dr. Ajay Bhushan Pandey, Chairman, GSTN
2. Shri Prakash Kumar, CEO, GSTN

3. Shri B. N. Sharma, Additional Secretary Revenue, Ministry of Finance
4. Smt. Meera Swarup, JS & FA, Dept of Revenue, Ministry of Finance
5. Shri Nitin K Jage, GM (Taxation), LIC Housing Finance Ltd.
6. Shri Bhavesh C Zehari, HDFC Bank Ltd.
7. Shri R Chandrashekar, President, NASSCOM
8. Shri Anand Sinha, Retired Deputy Governor, RBI
9. Dr. C Chandramouli, Additional Chief Secretary, Govt. Of Tamil Nadu,
10. Shri Arun Goyal, Additional Secretary, GST Council
11. Shri S K Panda, Special Secretary and Member (IT), Dept of Revenue, Ministry of Finance
12. Shri Ajay Kumar Gupta, Senior GM, ICICI Bank Ltd.

GST IT Strategy: Role assigned to GSTN

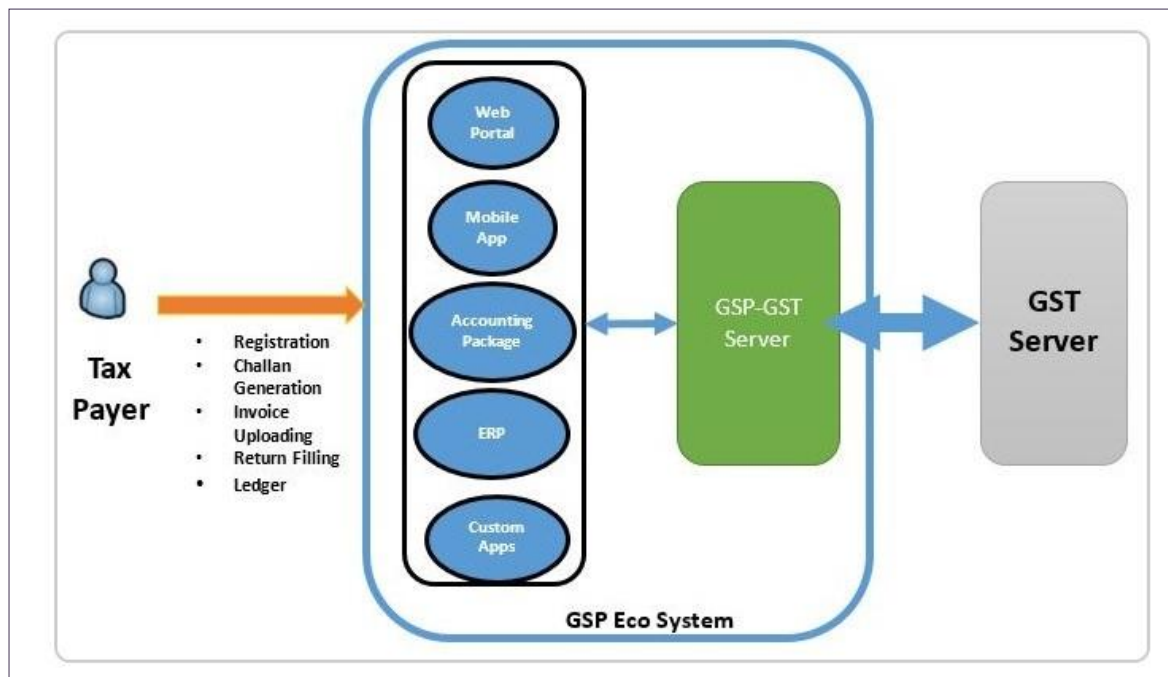
Creation of common and shared IT infrastructure for functions facing taxpayers has been assigned to GSTN and these are filing of registration application, filing of return, creation of challan for tax payment, settlement of IGST payment (like a clearing house), generation of business intelligence and analytics. All statutory functions to be performed by tax officials under GST like approval of registration, assessment, audit, appeal, enforcement etc. will remain with the respective tax departments. The diagram below shows the work distribution.



GST Suvidha Provider (GSP)

A GSP is a service provider who helps the taxpayer to comply with the provisions of the GST law through its web platform. Goods and Service Tax Network (GSTN) will receive the returns filed by companies through GST Suvidha

Provider. Indian Government has appointed 34 GST Suvidha Providers (GSPs) who will be allowed to develop simple applications to be used by taxpayers for interacting with GSTN.



List of GST Suvidha Providers

- Alankit Limited;
- Bodhtree Consulting Limited;
- Botree Software International Private Limited;
- Central Depository Services (India) Limited;
- Computer Management Services Private Limited;
- Cygnet Infotech Private Limited;
- Deloitte Touch Tohmastu India LLP;
- Ernst & Young LLP;
- Excellon Software Private Limited;
- Gofrugal Technologies Private Limited;
- Hazel Mercantile Limited;
- IRIS Business Services Limited;
- Karvy Data Management Services Limited;
- Mastek Limited;
- Masters India Private Limited;
- Motherson Sumi Infotech & Designs Limited;
- NSDL e-governance Infrastructure Limited;
- Ramco Systems Limited;
- Reliance Corporate IT Park Limited;
- Sessaasai Business Forms Private Limited;
- Shalibhadra Finance Limited;
- SISL Infotech Private Limited;
- Skill Lotto Solutions Private Limited;
- Spice Digital Limited;
- Sugal & Damani Utility Services Private Limited;
- Tally Solutions Private Limited;
- TATA Consultancy Services Limited;
- TAXMANN Publications Private Limited;
- Tera Software Limited;
- Trust Systems & Software (I) Private Limited;
- Vayana Private Limited;
- Velocis Systems Private Limited;
- Vertex Customer Management India Private Limited;
- WeP Solutions Limited.

Some News updates by GSTN

Date	GSTN News
07 Nov 2017	<p>GSTN develops robust system to handle last minute rush: CEO</p> <p>The Goods and Services Tax Network (GSTN), which went live on November 8, 2016 last year, has over the year improvised the system to help lakhs of businesses to pay taxes and file returns under the new GST regime every month. After a shaky first year of existence, GSTN CEO Prakash Kumar today said the company handling the IT backbone of GST has put in place a robust tax filing system that can withstand last minute rush.</p>

	<p>Relevant Data:</p> <p>More than 72 lakh businesses which were earlier registered with excise, service tax or VAT have already migrated to the GST regime, while over 30 lakh new businesses have come into the tax net.</p> <p>More than 13 lakh taxpayers filed their GSTR-3B return for August on the last day, September 20. Similarly, for GSTR-1, load on the network was close to 7 lakh.</p> <p>Since the roll out of GST on July 1, the GSTN portal has handled over 2.26 crore returns and collected revenue to the tune of Rs 2.78 lakh crore for the exchequer.</p>
05 Nov 2017	<p><u>GSTN LAUNCHES NEW FACILITY FOR EXPORTERS TO CLAIM REFUNDS</u></p> <p>GSTN said it has introduced a utility Table 6A in Form GSTR1 for exporters to claim refunds. An exporter can claim refund of IGST tax paid at the time of export by filling the details of shipping bill and tax paid GST invoice in his Form GSTR1 in the relevant month. The refund amount would be either credited to exporter's bank account through ECS or a cheque would be issued.</p> <p>Since for the months of August, September and October a number of taxpayers have filed return GSTR- 3B but as the dates for filing of GSTR-1 for August onwards have not yet been notified and GSTR1 has not been filed, therefore to enable exporters to file for refund, this functionality has been made available, the GSTN said.</p>
03 Nov 2017	<p><u>GSTN OFFLINE TOOL FOR RETURN FILING UNDER COMPOSITION SCHEME</u></p> <p>GSTN said it has launched an offline tool for filing of quarterly returns for taxpayers who opted for the composition scheme. The offline tool for preparation of GSTR-4 is available on GST portal and can be downloaded by taxpayers and tax consultants.</p> <p>"GSTR-4 return can be prepared only using the offline tool. This has been done to facilitate small businesses who can prepare the same on their own computers as per their convenience. Since they will be working offline, they do not need to be connected to the Internet.</p> <p>(Nearly 15 lakh businesses opted for composition scheme)</p>
03 Nov 2017	<p><u>GSTN LAUNCHES OFFLINE UTILITY FOR FILING PURCHASE RETURNS GSTR-2</u></p> <p>GSTN said it has launched an offline tool for filing purchase returns GSTR-2. The tool would allow taxpayers to export data of GSTR-2 to excel. This will be helpful in comparing this data with purchase register to take actions like accept, reject and modify.</p> <p>This new version of the offline tool for GSTR-2 is better than the previous one as it allows taxpayers to compare data with the purchase data.</p> <p>Nearly 21 lakh businesses have filed GSTR-2 for July. The last date for filing is November 30. Nearly 47 lakh businesses had filed a GSTR-1 or sales return, which has to be correspondingly matched with GSTR-2 or purchase returns.</p>

#Sources

www.gstn.org

www.businessstandard.com

www.business-standard.com

www.economicstimes.indiatimes.com

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

Updated Notifications - 15.11.2017

GOODS AND SERVICES TAX

CENTRAL TAX

Circular No. 14/14/2017
Dated: 6th November, 2017

This Circular is regarding the decisions taken by GST Council in its 22nd meeting. The following are the decisions that have been taken:

a) The supplies of goods by a registered person to EOUs etc. would be treated as deemed exports under Section 147 of the CGST Act, 2017 and refund of tax paid on such supplies can be claimed either by the recipient or supplier of such supplies.

b) For supplies to EOU/EHTP/STP/BTP units, the following procedure and safeguards are prescribed

- The recipient EOU/EHTP/STP/BTP unit shall give prior intimation in a prescribed proforma in "Form-A".
- The registered supplier thereafter will supply goods under tax invoice to the recipient EOU/EHTP/STP/BTP unit.
- On receipt of such supplies, the EOU / EHTP /STP/BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to the registered supplier, its jurisdictional GST officer etc.
- The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU/EHTP/STP/BTP unit.
- The recipient EOU/EHTP/STP/BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B".

c) The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU/EHTP/STP/BTP unit in terms of the Foreign Trade Policy, 2015- 20 and the duty exemption notification being availed by such unit.

Circular No. 15/15/2017
Dated: 6th November, 2017

This circular is regarding extension of due date for generation of FORM GSTR-2A and FORM GSTR-1A in accordance with the extension of due date for filing FORM GSTR-1 and GSTR-2 respectively. In this circular, it is clarified that the due date of FORM GSTR-2A is also extended along with FORM GSTR-2.

The details furnished in FORM GSTR-1 are available to the recipient in FORM GSTR-2A from 11th of October, 2017.

And the details in FORM GSTR- 1A shall be made available to the supplier from the 1st of December to the 6th of December, 2017 for the month of July 2017.

CENTRAL TAX RATE

Notification No. 41 /2017- Central Tax (Rate)
Dated: 14th November, 2017

This Notification is related to amendment in CGST Rates in the following schedules:

- Schedule I - 2.5% [All goods (other than fresh or chilled) and put up in unit container]
- Schedule II-6% [Condensed milk]
- Schedule III-9% [Sugar confectionery [other than mishri, batasha, bura, sakar, khadi sakar]
- Schedule-IV-14% [Rear tractor tyres and of a kind used on aircraft]

For the entire list of goods, please visit <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-43-igst-rate-english.pdf>

This notification shall come into force on the 15th day of November 2017.

Notification No. 42 /2017- Central Tax (Rate)
Dated: 14th November, 2017

As per this Notification the intra state supply of some of the goods has been exempted from CGST. Such as,

- All goods, fresh or chilled.
- Vegetables (uncooked or cooked by steaming or boiling in water), frozen, other than those put up in unit container.
- Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, frozen, whether or not sliced or in the form of pellets other than those put up in unit container.
- Dried makhana, whether or not shelled or peeled other than those put up in unit container.

and,-

(a) bearing a registered brand name; or

(b) bearing a brand name on which an actionable claim or enforceable right in a court of law is

available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to few conditions.

- Guar meal
- Hop cones, neither ground nor powdered nor in the form of pellets
- coconut shell, unworked
- Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery; Khandsari Sugar

- Salt and pure sodium chloride, whether or not in aqueous solutions or containing added anti-caking or free flowing agents; sea water”
- Uranium Ore Concentrate.
- Flour, powder, flakes, granules or pellets of potatoes

This notification shall come into force with effect from the 15th day of November, 2017.

Notification No. 43 /2017- Central Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding the goods on which the central tax shall be paid on reverse charge basis by the recipient of the intra-state supply of such goods. The following Tariff item shall be added to the list.

Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
5201	Raw cotton	Agriculturist	Any registered person

This notification shall come into force with effect from the 15th day of November, 2017

Notification No. 44 /2017- Central Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding disallowance of **refund of unutilized input tax credit**, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).

Tariff item, heading, subheading or Chapter	Description of Goods
5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
5801	Corduroy fabrics
5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)”

This notification shall come into force with effect from the 15th day of November, 2017.

Notification No. 45/2017- Central Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding exemption of goods such as Scientific and technical instruments, apparatus, equipment (including computers), accessories, parts, consumables and live animals (experimental purpose) etc, from so much of the central tax leviable thereon under section 9 of the said Act, as in excess of the amount calculated at the rate of 2.5 per cent, when supplied to the institutions i.e. Public funded research institution other than a hospital or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College.

This notification shall come into force with effect from the 15th day of November, 2017.

Notification No. 46/2017- Central Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding amendment in the Notification No.11/2017- Central Tax (Rate), dated the 28th June, 2017 in relation to Central Tax Rate on the intra-State supply of services of description as specified in the table.

For the entire Table, please visit <http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-46-cgst-rate-english-i.pdf>

Notification No. 47/2017- Central Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding exemption of services from Central Tax leviable on the intra State supply. Following are the services:

- Service provided by Fair Price Shops to Central Government, State Government or Union territory

by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.

- Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 (24 of 1958) or any of the State Acts, for the time being in force.

This notification shall come into force with effect from 15th of November, 2017.

INTEGRATED TAX RATE

Notification No. 43/2017- Integrated Tax (Rate) Dated: 14th November, 2017

This Notification is related to amendment in IGST Rates in the following schedules:

- Schedule I - 5% [All goods (other than fresh or chilled) and put up in unit container]
- Schedule II-12% [Condensed milk]
- Schedule III-18% [Sugar confectionery [other than mishri, batasha, bura, sakar, khadi sakar]
- Schedule-IV-28% [Rear tractor tyres and of a kind used on aircraft]

For the entire list of goods, please visit <http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-43-igst-rate-english.pdf>

This notification shall come into force on the 15th day of November 2017.

Notification No. 44 /2017- Integrated Tax (Rate) Dated: 14th November, 2017

As per this Notification the interstate supply of some of the goods has been **exempted** from IGST.

Such as,

- All goods, fresh or chilled.
- Vegetables (uncooked or cooked by steaming or boiling in water), frozen, other than those put up in unit container.
- Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with

Notification No. 45 /2017- Integrated Tax (Rate) Dated: 14th November, 2017

This Notification is regarding the goods on which the integrated tax shall be paid on reverse charge basis by the recipient of the intra-state supply of such goods. The following Tariff item shall be added to the list.

Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
5201	Raw cotton	Agriculturist	Any registered person

This notification shall come into force with effect from the 15th day of November, 2017

high starch or inulin content, frozen, whether or not sliced or in the form of pellets other than those put up in unit container.

- Dried makhana, whether or not shelled or peeled other than those put up in unit container.

and,-

- (a) bearing a registered brand name; or
- (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I;

- Guar meal
- Hop cones, neither ground nor powdered nor in the form of pellets
- coconut shell, unworked
- Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery; Khandsari Sugar
- Salt and pure sodium chloride, whether or not in aqueous solutions or containing added anti-caking or free flowing agents; sea water"
- Uranium Ore Concentrate.
- Flour, powder, flakes, granules or pellets of potatoes

This notification shall come into force with effect from the 15th day of November, 2017.

Notification No. 46 /2017- Integrated Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding disallowance of refund of unutilized input tax credit, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such goods (other than nil rated or fully exempt supplies).

Tariff item, heading, subheading or Chapter	Description of Goods
5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
5801	Corduroy fabrics
5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)"

This notification shall come into force with effect from the 15th day of November, 2017.

Notification No. 47 /2017- Integrated Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding exemption of goods such as Scientific and technical instruments, apparatus, equipment (including computers), accessories, parts, consumables and live animals (experimental purpose) etc, from so much of the integrated tax leviable thereon under section 9 of the said Act, as in excess of the amount calculated at the rate of 5 per cent, when supplied to the institutions i.e. Public funded research institution other than a hospital or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College.

This notification shall come into force with effect from the 15th day of November, 2017.

Notification No. 48 /2017- Integrated Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding amendment in the Notification No.8/2017- Integrated Tax (Rate), dated the 28th June, 2017 in relation to Integrated Tax Rate on the inter State supply of services of description as specified in the table.

For the entire Table, please visit <http://www.cbec.gov.in/resources/htdocs-cbec/gst/notfctn-48-igst-rate-english.pdf>

Notification No. 49 /2017- Integrated Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding exemption of services from Integrated Tax leviable on the inter State supply. Following are the services:

- Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.

- Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 (24 of 1958) or any of the State Acts, for the time being in force.

This notification shall come into force with effect from 15th of November, 2017.

Notification No. 50 /2017- Integrated Tax (Rate)

Dated: 14th November, 2017

This Notification is regarding exempting the inter-State supplies of Skimmed milk powder, or concentrated milk when distribution is done through dairy cooperatives or companies registered under the Companies Act, 2013 (18 of 2013), from the whole of the integrated tax leviable thereon under section 5 of the Integrated Good and Services Tax Act.

CUSTOMS

TARIFF

Notification No. 83 /2017-Customs

Dated: 31st October, 2017

This notification is related to exemption of few goods which are supplied under Patient Assistance Programmes from whole of the duty of Customs leviable thereon when imported into India.

Central Government has added the followings in the list.

Sr. No.	Description of drug / medicine	Name of Patient Assistance Programme	Name of pharmaceutical company running Patient Assistance Programme
1	Erlotinib (Tarceva)	The Blue Tree	Roche Products (India) Private Ltd.
2	Trastuzumab (Herclon)	The Blue Tree	Roche Products (India) Private Ltd.
3	Pertuzumab (Perjeta)	The Blue Tree	Roche Products (India) Private Ltd.
4	Transtuzumab Emtansine (Kadcyla)	The Blue Tree	Roche Products (India) Private Ltd.
5	Obinutuzumab (Gazyva)	The Blue Tree	Roche Products (India) Private Ltd.

For the entire list, please visit <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2017/cs-tarr2017/cs83-2017.pdf>

Notification No. 84 /2017-Customs

Dated: 8th November, 2017

This Notification is regarding exemption of goods when imported into India from so much of duty calculated in excess of Standard Rate mentioned in the Earlier Notification no. No. 50 /2017 –Customs. As per this Notification few entries into the Notification no. No. 50 /2017 –Customs shall be amended i.e.

S. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Integrated Goods and Services Tax	Condition No.
20A	0713 10 00	Peas (Pisum sativum)	50%	-	-”
20	0713	Pulses except Peas (Pisum sativum) and Tur	Nil	-	-”
37	1001 19 00 or 1001 99 10	Wheat	20%	-	-“

Notification No. 85 /2017-Customs

Dated: 14th November, 2017

This Notification is regarding exempting the goods from when imported into India from so much of duty calculated in excess of Standard Rate mentioned in the Earlier Notification no. No. 50 /2017 –Customs. As per this Notification few entries into the Notification no. No. 50 /2017 –Customs shall be inserted i.e.

S. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Integrated Goods and Services Tax	Condition No.
“557B	Any Chapter	All goods, vessels, ships [other than motor vehicles] imported under lease, by the importer for use after import	-	Nil	102”
“607A	9804	Lifesaving drugs/medicines for personal use, supplied free of cost by overseas supplier	Nil	Nil	104”
37	1001 19 00 or 1001 99 10	Wheat	20%	-	-“

Notification No. 86 /2017-Customs
Dated: 14th November, 2017

This Notification is regarding exemption of goods when imported into India from whole of the Integrated Tax leviable on them.

Please visit
<http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2017/cs-tarr2017/cs86-2017.pdf>

This notification shall come into force with effect from the 15th day of November, 2017.

NON-TARIFF

Notification No. 101/2017-CUSTOMS (N.T.)
Dated: 31st October, 2017

This notification is regarding exemption to some of the goods when imported into India from so much of Custom Duty paid in excess of the Standard Rate. Below mentioned is the table of some of them.

Table

Sl. No.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	721
2	1511 90 10	RBD Palm Oil	754
3	1511 90 90	Others – Palm Oil	738
4	1511 10 00	Crude Palmolein	755
5	1207 91 00	Poppy seeds	2645

For the entire list, please visit <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2017/cs-nt2017/csnt101-2017.pdf>

Notification No.102/2017 - Customs (N.T.)
Dated: 1st November, 2017

This Notification is a further amendment in the Notification No. 97/2017 7-CUSTOMS (N.T.), dated 24th October, 2017. Here, The Central Board of Excise and Customs determines the rate of exchange of conversion of foreign currency “Qatari Riyal” into Indian currency or vice versa, shall, with effect from

2nd November, 2017, is the rate mentioned as mentioned below:

Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(For Imported Goods)	(For Export Goods)
17.65	16.20

Notification No.103/2017 - Customs (N.T.)
Dated: 2nd November, 2017

This Notification is a further amendment in the Notification No. 96/2017 7-CUSTOMS (N.T.), dated 18th October, 2017. Here, the Central Board of Excise and Customs determines that the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa, shall, with effect from 3rd November, 2017, is the rate mentioned in this Notification.

SCHEDULE-I

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	50.65	48.90
2	Bahrain Dinar	177.15	165.50
3	Canadian Dollar	51.10	49.50
4	Chinese Yuan	9.95	9.60

For the entire list, please visit <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2017/cs-nt2017/csnt103-2017.pdf>

Notification No.104/2017 - Customs (N.T.)
Dated: 6th November, 2017

This Notification is a further amendment in the Notification No. 103/2017 7-CUSTOMS (N.T.), dated 2nd November, 2017. Here, The Central Board of

Excise and Customs determines the rate of exchange of conversion of foreign currency “Qatari Riyal” into Indian currency or vice versa, shall, with effect from 7th November, 2017, is the rate mentioned as mentioned below:

Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(For Imported Goods)	(For Export Goods)
18.25	17.25

Notification No.105/2017 - Customs (N.T.)
Dated: 7th November, 2017

This Notification is a further amendment in the Notification No. 104/2017 7-CUSTOMS (N.T.), dated 6th November, 2017. Here, The Central Board of Excise and Customs determines the rate of exchange of conversion of foreign currency “**Qatari Riyal**” into Indian currency or vice versa, shall, with effect from 8th November, 2017, is the rate mentioned as mentioned below:

Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(For Imported Goods)	(For Export Goods)
17.55	16.15

Notification No.106/2017 - Customs (N.T.)
Dated: 8th November, 2017

This Notification is a further amendment in the Notification No. 105/2017 7-CUSTOMS (N.T.), dated 7th November, 2017. Here, The Central Board of Excise and Customs determines the rate of exchange of conversion of foreign currency “**Qatari Riyal**” into Indian currency or vice versa, shall, with effect from 9th November, 2017, is the rate mentioned as mentioned below:

Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(For Imported Goods)	(For Export Goods)
18.35	17.35

Notification No.107/2017 - Customs (N.T.)
Dated: 9th November, 2017

This Notification is a further amendment in the Notification No. 106/2017 7-CUSTOMS (N.T.), dated 8th November, 2017. Here, The Central Board of Excise and Customs determines the rate of exchange of conversion of foreign currency “**Qatari Riyal**” into Indian currency or vice versa, shall, with effect from 10th November, 2017, is the rate mentioned as mentioned below:

Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(For Imported Goods)	(For Export Goods)
17.75	16.25

Notification No.108/2017 - Customs (N.T.)
Dated: 14th November, 2017

This Notification is a further amendment in the Notification No. 107/2017 7-CUSTOMS (N.T.), dated 9th November, 2017. Here, The Central Board of

Excise and Customs determines the rate of exchange of conversion of foreign currency “**Qatari Riyal**” into Indian currency or vice versa, shall, with effect from 14th November, 2017, is the rate mentioned as mentioned below:

Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(For Imported Goods)	(For Export Goods)
18.50	17.45

ANTI DUMPING DUTY

Notification No. 53/2017-Customs (ADD)
Dated: 2nd November, 2017

As per this Notification “Sodium Chlorate” originating in, or exported from Canada, China PR and EU and imported into India will attract Anti -dumping duty. The rate of duty is given in the table. Please refer <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2017/cs-add2017/csadd53-2017.pdf>

The anti-dumping duty imposed shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification.

Circular No. 41/2017-Customs
Dated: 30th October, 2017

As per this circular, it has been made mandatory for exporters to implement Electronic Sealing for Containers under self-sealing procedure with effect from 1st November, 2017. This measure is expected to reduce transaction costs of exporters since they do not have to incur Merchant OverTime (MoT) charges in respect of such supervision as well as improve their timeliness of their exports

Circular No. 42/2017-Customs
Dated: 7th November, 2017

This Circular is related to initiation of procedure for refund of IGST paid on export of goods. Since export community earns valuable foreign exchange and provides significant employment especially in the small and medium sector, the council approved that by 10.10.2017 the refund of IGST paid on export of goods in July would begin to be paid and refunds for subsequent months will be handled expeditiously.

This circular also clarifies some of the common errors that are hindering the disbursement of IGST refund and decisions have been taken to address such errors.

INCOME TAX

**Notification No. 93/2017 [F. NO. 501/1/83-FTD.II]
Dated: 2nd November, 2017**

This Notification is regarding an Agreement between The Government of The Republic of India and The Government of New Zealand for the avoidance of Double Taxation and the prevention of fiscal evasion with respect to taxes on Income.

**Circular No. 27/2017
Dated: 3rd November, 2017**

This Circulation is related to Clarification on Cash sale of agricultural produce by cultivators/agriculturist to traders. Section 40A (3) of the Income-tax Act, 1961 provides for the disallowances of expenditure exceeding Rs. 10000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account.

However, rule 6DD of the Income-tax Rules, 1962 ('IT Rules') creates certain exceptions from application of the provisions of section 40A (3) in some specific cases and circumstances, which amongst all other things include payments made for purchase of agricultural produce to the cultivators of such produce. Therefore, no disallowance under section 40A (3) of the Act can be made if the trader makes cash purchases of agricultural produce from the cultivator.

Further, section 269ST, subject to certain exceptions, prohibits receipt of Rs. 2 lakh or more otherwise than by an account payee cheque/draft or by use of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. Therefore, any cash sale of an amount of Rs. 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST of the Act.

Further also the provisions relating to quoting of PAN or furnishing of Form No.60 under rule 114B of the IT Rules do not apply to the sale transaction of Rs. 2 Lakh or less.

In view of the above, it is clarified that cash sale of the agricultural produce by its cultivator to the trader for an amount less than Rs 2 Lakh will not:-

- a) result in any disallowance of expenditure under section 40A (3) of the Act in the case of trader.
- b) attract prohibition under section 269ST of the Act in the case of the cultivator; and
- c) require the cultivator to quote his PAN/or furnish Form No. 60.

**Circular No.28/2017
Dated: 7th November, 2017**

This Circulation is regarding clarification on Indirect Transfer provisions in case of redemption of share or interest outside India under the Income-tax Act, 1961

Under the provisions contained in section 9(1) (i) of the Income-tax Act, 1961 ('Act'), all income accruing or arising, whether directly or indirectly

- Through or from any business connection in India, or
- Through or from any property in India, or
- Through or from any asset or source of income in India or
- Through the transfer of a capital asset situate in India,

Shall be deemed to accrue or arise in India.

Concerns have been expressed by investment funds, including private equity funds and venture capital funds that on account of the extant indirect transfer provisions in the Act, non-resident investment funds investing in India, which are set up as multi-tier investment structures, suffer multiple taxation of the same income at the time of subsequent redemption or buyback. Such taxability arises firstly at the level of the fund in India on its short term capital gain business income and then at every upper level of investment in the fund chain on subsequent redemption or buyback. The Board has received representations to exclude investors above the level of the direct investor, who is already chargeable to tax in India on such income, from the ambit of indirect transfer provisions of the Act.

PRESS RELEASE

**Press Information Bureau
Government of India
Ministry of Finance**

Dated 13th November, 2017

Accepting of Unique Identity Number of Foreign Diplomatic Missions/UN Organizations while making sales or supplies

Various representations have been received from Foreign Diplomatic Missions/UN Organizations regarding unwillingness of the vendors/suppliers to record the UIN (Unique Identify Number) while making sales to such Missions/Consulates or UN organizations. It may be noted that sale or supply to Foreign Diplomatic Missions/UN Organizations is like any other Business to Consumer (B2C) sale and will not have any additional effect on the supplier's tax liability. Recording of UIN while making such sales will enable Foreign Diplomatic Missions/UN Organizations to claim refund of the taxes paid by them in India. Therefore, it is advised that under no circumstance any supplier should decline to record the UIN of the diplomat / official on the tax invoice. Further, it may also be noted that the diplomats/consulate staff may quote the same UIN as allotted to their Missions/Consulates or UN organizations while making any purchases. Unique Identification Number (UIN) is a 15-digit unique number allotted to any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries. First two digits of the UIN denotes State code where the Diplomatic Mission/Consulate/Embassy is located. Search functionality for UIN is available on the GST Common Portal in "Search Taxpayer" option. On entering UIN and captcha, details of the Diplomatic Mission/Consulate/ Embassy/ will be available.

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**Press Information Bureau
Government of India
Ministry of Finance**

Dated 10th November, 2017

Recommendations made by the GST Council in the 23rd meeting at Guwahati

The GST Council, in its 23rd meeting held at Guwahati on 10th November 2017, has recommended the following facilitative measures for taxpayers:

Return Filing

a) The return filing process is to be further simplified in the following manner:

(a) All taxpayers would file return in FORM GSTR-3B along with payment of tax by 20th of the succeeding month till March, 2018.

(b) For filing of details in FORM GSTR-1 till March 2018, taxpayers would be divided into two categories. Details of these two categories along with the last date of filing GSTR 1 are as follows:

(a) Taxpayers with annual aggregate turnover upto Rs. 1.5 crore need to file GSTR-1 on quarterly basis as per following frequency:

Period	Dates
Jul- Sep	31 st Dec 2017
Oct- Dec	15 th Feb 2018
Jan- Mar	30 th April 2018

(b) Taxpayers with annual aggregate turnover more than Rs. 1.5 crore need to file GSTR-1 on monthly basis as per following frequency:

Period	Dates
Jul-Oct	31 st Dec 2017
Nov	10 th Jan 2018
Dec	10 th Feb 2018
Jan	10 th Mar 2018
Feb	10 th Apr 2018
Mar	10 th May 2018

I. The time period for filing GSTR-2 and GSTR-3 for the months of July, 2017 to March 2018 would be worked out by a Committee of Officers. However, filing of GSTR-1 will continue for the entire period without requiring filing of GSTR-2 & GSTR-3 for the previous month/period.

b) A large number of taxpayers were unable to file their return in FORM GSTR-3B within due date for the months of July, August and September, 2017. Late fee was waived in all such cases. It has been decided that where such late fee was paid, it will be re-credited to their

Electronic Cash Ledger under "Tax" head instead of "Fee" head so as to enable them to use that amount for discharge of their future tax liabilities. The software changes for this would be made and thereafter this decision will be implemented.

c) For subsequent months, i.e. October 2017 onwards, the amount of late fee payable by a taxpayer whose tax liability for that month was 'NIL' will be Rs. 20/- per day (Rs. 10/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts).

Manual Filing

d) A facility for manual filing of application for advance ruling is being introduced for the time being.

Further benefits for service providers

e) Exports of services to Nepal and Bhutan have already been exempted from GST. It has now been decided that such exporters will also be eligible for claiming Input Tax Credit in respect of goods or services used for effecting such exempt supply of services to Nepal and Bhutan.

f) In an earlier meeting of the GST Council, it was decided to exempt those service providers whose annual aggregate turnover is less than Rs. 20 lakhs (Rs. 10 lakhs in special category states except J & K) from obtaining registration even if they are making inter-State taxable supplies of services. As a further measure towards taxpayer facilitation, it has been decided to exempt such suppliers providing services through an e-commerce platform from obtaining compulsory registration provided their aggregate turnover does not exceed twenty lakh rupees. As a result, all service providers, whether supplying intra-State, inter-State or through e-commerce operator, will be exempt from obtaining GST registration, provided their aggregate turnover does not exceed Rs. 20 lakhs (Rs. 10 lakhs in special category States except J & K).

Extension of dates

g) Taking cognizance of the late availability or unavailability of some forms on the common portal, it has been decided that the due dates for furnishing the following forms shall be extended as under:

S. No.	FORM and Details	Original due date	Revised due date
1	GST ITC-04 for the quarter July-September, 2017	25.10.2017	31.12.2017
2	GSTR-4 for the quarter July-September, 2017	18.10.2017	24.12.2017
3	GSTR-5 for July, 2017	20.08.2017 or 7 days from the last date of registration whichever is earlier	11.12.2017
4	GSTR-5A for July, 2017	20.08.2017	15.12.2017
5	GSTR-6 for July, 2017	13.08.2017	31.12.2017
6	TRAN-1	30.09.2017	31.12.2017 (One-time option of revision also to be given till this date)

Revised due dates for subsequent tax periods will be announced in due course.

Benefits for Diplomatic Missions/UN organizations

h) In order to lessen the compliance burden on Foreign Diplomatic Missions/UN Organizations, a centralized UIN will be issued to every Foreign Diplomatic Mission/UN Organization by the Central Government and all compliance for such agencies will be done by the Central Government in coordination with the Ministry of External Affairs.

2. Relevant notifications for all of the above decisions will be issued shortly, so as to be effective from 15.11.2017.

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Press Release
Press Information Bureau
Government of India
Ministry of Finance

10th November, 2017

PRESS RELEASE ON GST RATE CHANGES

Recommendations made by the GST Council as per discussions in its 23rd Meeting on 10th November, 2017 held at Guwahati

This information is being uploaded immediately after the discussions in the 23rd GST Council Meeting.

a) In the meeting held today, that is 10th November, 2017; the Council has recommended major relief in GST rates on certain goods and services. These recommendations spread across many sectors and across commodities.

b) As per these recommendations, the list of 28% GST rated goods is recommended to be pruned substantially, from 224 tariff headings [about 18.5% of total tariff headings at 4-digit] to only 50 tariff headings including 4 headings which have been partially reduced to 18% [about 4% of total tariff headings at 4-digit].

c) Further, the Council has recommended changes in GST rates on a number of goods, so as to rationalize the rate structure with a view to minimize classification disputes.

d) The Council has also recommended issuance of certain clarifications to address the grievance of trade on issues relating to GST rates and taxability of certain goods and services.

e) On the services side also, the Council recommended changes in GST rates to provide relief to aviation & handicraft sectors and restaurants.

Major recommendations of the Council are summarized below.

1. Pruning of list of 28% rated goods: The Council has recommended reduction in GST rate from 28% to 18% on goods falling in 178 headings at 4-digit level (including 4 tariff heading that are partially pruned). After these changes, only 50 items will attract GST rate of 28%.

a) Goods on which the Council has recommended reduction in GST rate from

28% to 18% include:

- Wire, cables, insulated conductors, electrical insulators, electrical plugs, switches, sockets, fuses, relays, electrical connectors
- Electrical boards, panels, consoles, cabinets etc for electric control or distribution
- Particle/fibre boards and ply wood. Article of wood, wooden frame, paving block
- Furniture, mattress, bedding and similar furnishing
- Trunk, suitcase, vanity cases, brief cases, travelling bags and other hand bags, cases
- Detergents, washing and cleaning preparations
- Liquid or cream for washing the skin
- Shampoos; Hair cream, Hair dyes (natural, herbal or synthetic) and similar other goods; henna powder or paste, not mixed with any other ingredient;
- Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, perfumery, cosmetic or toilet preparations, room deodorizers
- Perfumes and toilet waters
- Beauty or make-up preparations
- Fans, pumps, compressors
- Lamp and light fitting
- Primary cell and primary batteries
- Sanitary ware and parts thereof of all kind
- Articles of plastic, floor covering, baths, shower, sinks, washbasins, seats, sanitary ware of plastic
- Slabs of marbles and granite
- Goods of marble and granite such as tiles
- Ceramic tiles of all kinds
- Miscellaneous articles such as vacuum flasks, lighters,
- Wrist watches, clocks, watch movement, watch cases, straps, parts
- Article of apparel & clothing accessories of leather, guts, furskin, artificial fur and other articles such as saddlery and harness for any animal
- Articles of cutlery, stoves, cookers and similar non electric domestic appliances
- Razor and razor blades
- Multi-functional printers, cartridges
- Office or desk equipment
- Door, windows and frames of aluminum.
- Articles of plaster such as board, sheet,
- Articles of cement or concrete or stone and artificial stone,
- Articles of asphalt or slate,
- Articles of mica

- Ceramic flooring blocks, pipes, conduit, pipe fitting
- Wall paper and wall covering
- Glass of all kinds and articles thereof such as mirror, safety glass, sheets, glassware
- Electrical, electronic weighing machinery
- Fire extinguishers and fire extinguishing charge
- Forklifts, lifting and handling equipment,
- Bull dozers, excavators, loaders, road rollers,
- Earth moving and leveling machinery,
- Escalators,
- Cooling towers, pressure vessels, reactors
- Crankshaft for sewing machine, tailor's dummies, bearing housings, gears and gearing; ball or roller screws; gaskets
- Electrical apparatus for radio and television broadcasting
- Sound recording or reproducing apparatus
- Signaling, safety or traffic control equipment for transports
- Physical exercise equipment, festival and carnival equipment, swings, shooting galleries, roundabouts, gymnastic and athletic equipment
- All musical instruments and their parts
- Artificial flowers, foliage and artificial fruits
- Explosive, anti-knocking preparation, fireworks
- Cocoa butter, fat, oil powder,
- Extract, essence ad concentrates of coffee, miscellaneous food preparations
- Chocolates, Chewing gum / bubble gum
- Malt extract and food preparations of flour, groats, meal, starch or malt extract
- Waffles and wafers coated with chocolate or containing chocolate
- Rubber tubes and miscellaneous articles of rubber
- Goggles, binoculars, telescope,
- Cinematographic cameras and projectors, image projector,
- Microscope, specified laboratory equipment, specified scientific equipment such as for meteorology, hydrology, oceanography, geology
- Solvent, thinners, hydraulic fluids, anti-freezing preparation

b) Goods on which the Council has recommended reduction in GST rate from

28% to 12% are:

Wet grinders consisting of stone as grinder
Tanks and other armoured fighting vehicles

2. Other changes/rationalization of GST rates on goods:

a) 18% to 12%

Condensed milk
Refined sugar and sugar cubes
Pasta

Curry paste, mayonnaise and salad dressings, mixed condiments and mixed seasoning
Diabetic food
Medicinal grade oxygen
Printing ink
Hand bags and shopping bags of jute and cotton
Hats (knitted or crocheted)
Parts of specified agricultural, horticultural, forestry, harvesting or threshing machinery
Specified parts of sewing machine
Spectacles frames
Furniture wholly made of bamboo or cane

b) 18% to 5%

Puffed rice chikki, peanut chikki, sesame chikki, revdi, tilrevdi, khaza, kazuali, groundnut sweets gatta, kuliya
Flour of potatoes put up in unit container bearing a brand name
Chutney powder
Fly ash
Sulphur recovered in refining of crude
Fly ash aggregate with 90% or more fly ash content

c) 12% to 5%

Desiccated coconut
Narrow woven fabric including cotton newar [with no refund of unutilized input tax credit]
Idli, dosa batter
Finished leather, chamois and composition leather
Coir cordage and ropes, jute twine, coir products
Fishing net and fishing hooks
Worn clothing
Fly ash brick

d) 5% to Nil

Guar meal
Hop cone (other than grounded, powdered or in pellet form)
Certain dried vegetables such as sweet potatoes, maniac
Unworked coconut shell
Fish frozen or dried (not put up in unit container bearing a brand name)
Khandsari sugar

e) Miscellaneous

GST rates on aircraft engines from 28%/18% to 5%, aircraft tyres from 28% to 5% and aircraft seats from 28% to 5%.

GST rate on bangles of lac/shellac from 3% GST rate to Nil.

3. Exemption from IGST/GST in certain specified cases:

i. Exemption from IGST on imports of lifesaving medicine supplied free of cost by overseas supplier for patients, subject to certification by DGHS of Centre or State and certain other conditions

ii. Exemption from IGST on imports of goods (other than motor vehicles) under a lease agreement if IGST is paid on the lease amount.

iii. To extend IGST exemption presently applicable to skimmed milk powder or concentrated milk, when supplied to distinct person under section 25(4) for use in production of milk for distribution through dairy cooperatives to where such milk is distributed through companies registered under the Companies Act.

iv. Exemption from IGST on imports of specified goods by a sports person of outstanding eminence, subject to specified conditions

v. Exemption from GST on specified goods, such as scientific or technical instruments, software, prototype supplied to public funded research institution or a university or IISc, or IITs or NIT.

vi. Coverage of more items, such as temporary import of professional equipment by accredited press persons visiting India to cover certain events, broadcasting equipments, sports items, testing equipment, under ATA carnet system. These goods are to be re-exported after the specified use is over.

4. Other changes for simplification and harmonization or clarification of issues

i. To clarify that inter-state movement of goods like rigs, tools, spares and goods on wheel like cranes, not being in the course of furtherance of supply of such goods, does not constitute a supply. This clarification gives major compliance relief to industry as there are frequent inter-state movements of such kind in the course of providing services to customers or for the purposes of getting such goods repaired or refurbished or for any self-use. Service provided using such goods would in any case attract applicable tax.

ii. To prescribe that GST on supply of raw cotton by agriculturist will be liable to be paid by the recipient of such supply under reverse charge.

iii. Supply of e-waste attracts 5% GST rate. Concerned notification to be amended to make it amply clear that this rate applies only to e-waste discarded as waste by the consumer or bulk consumer.

5. Changes relating to GST rates on certain services

(A) Exemptions / Changes in GST Rates / ITC Eligibility Criteria

i. All stand-alone restaurants irrespective of air conditioned or otherwise, will attract 5% without ITC. Food parcels (or takeaways) will also attract 5% GST without ITC.

ii. Restaurants in hotel premises having room tariff of less than Rs 7500 per unit per day will attract GST of 5% without ITC.

iii. Restaurants in hotel premises having room tariff of Rs 7500 and above per unit per day (even for a single room) will attract GST of 18% with full ITC.

iv. Outdoor catering will continue to be at 18% with full ITC.

v. GST on services by way of admission to "protected monuments" to be exempted.

vi. GST rate on job work services in relation to manufacture of those handicraft goods in respect of which the casual taxable person has been exempted from obtaining registration, to be reduced to 5% with full input tax credit.

(B) Rationalization of certain exemption entries

i. The existing exemption entries with respect to services provided by Fair Price Shops to the Central Government, State Governments or Union Territories by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against consideration in the form of commission or margin, is being rationalized so as to remove ambiguity regarding list of items and the category of recipients to whom the exemption is available.

ii. In order to maintain consistency, entry at item (vi) of Sr. No.3 of notification No. 11/2017-CT(R) will be aligned with the entries at items (ii), (iii), (iv) and (v) of Sl.No.3. [The word "services" in entry (vi) will be replaced with "Composite supply of Works contract as defined in clause 119 of Section 2 of CGST Act, 2017"].

iii. In order to obviate dispute and litigation, it is proposed that irrespective of whether permanent transfer of Intellectual Property is a supply of goods or service.-

(i) permanent transfer of Intellectual Property other than Information Technology software attracts GST at the rate of 12%; and

(ii) permanent transfer of Intellectual Property in respect of Information Technology software attracts GST at the rate of 18%.

(C) Clarifications

i. It is being clarified that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act.

ii. A Circular will be issued clarifying that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits & cashew nuts etc. fall outside the definition of agricultural produce given in notification No. 11/2017-CT(R) and 12/2017-CT(R) and therefore the

exemption from GST is not available to their loading, packing, warehousing etc.

iii. A suitable clarification will be issued that (i) services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under Sl. No. 40 of notification No. 12/2017-Central Tax (Rate); (ii) services provided by State Government by way of general insurance (managed by government) to employees of the State government/Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017-CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.

3. It is proposed to issue notifications [giving effect to these recommendations of the Council] on 14th/15th November, 2017, to be effective from 00hrs on 15th of November, 2017.

Changes recommended in Composition Scheme

a) Uniform rate of tax @ 1% under composition scheme for manufacturers and traders (for traders, turnover will be counted only for supply of taxable goods). No change for composition scheme for restaurant.

b) Supply of services by Composition taxpayer upto Rs 5 lakh per annum will be allowed by exempting the same

c) Annual turnover eligibility for composition scheme will be increased to Rs 2 crore from the present limit of Rupees 1 crore under the law. Thereafter, eligibility for composition will be increased to Rs. 1.5 Crore per annum.

The changes recommended by GST Council at (iii) above will be implemented only after the necessary amendment of the CGST Act and SGST Acts.

JUDGEMENTS

Direct Taxes

1. Low Tax Effect Circular

CIT vs. Gemini Distilleries (Supreme Court)
Date of pronouncement- October 12, 2017

FACT OF THE CASE-

The CBDT cannot issue any circular having retrospective operation. Consequently, instruction/circular issued on 9.2.2011 directing withdrawal of low tax effect appeals applies only to appeals filed after that date and not to pending appeals. The fact that the CBDT itself vide Circular dated 10.12.2015 directed that the instruction to withdraw low tax effect appeals will apply retrospectively to pending appeals has no bearing.

The question raised in this batch of Appeals is as to whether the instructions/circular issued by the Central Board of Direct Taxes on 9.2.2011 will have retrospective operation or not.

DECISION OF THE CASE

This Court in Commissioner of Income Tax-VIII, New Delhi v. Suman Dhamija (Civil Appeal Nos.4919-4920/2015) has held that instructions/circular dated 9.2.11 is not retrospective in nature and they shall not govern cases which have been filed before 2011, and that, the same will govern only such cases which are filed after the issuance of the aforesaid instructions dated 9.2.2011.

Learned counsel for the respondents relied upon circular dated 10th December, 2015 and specifically relied upon paragraph 10.

"We are of the considered opinion that the central board of direct taxes cannot issue any circular having retrospective operation. Respectfully following the above decision, we allow the instant Appeals."

The impugned order passed by the High Court dated 2.11.2011 in ITA No.887/2006 is set aside. The matter(s) is/are remitted back to the High Court for re-adjudication on merits and in accordance with law.

The Civil Appeals are allowed in the above terms.

2. Application of Section 44BB

Sedco Forex International Inc vs. CIT (Supreme Court)
Date of pronouncement-October 30, 2017

FACT OF THE CASE-

Section 44BB starts with non-obstante clause, and the formula contained therein for computation of income is to be applied irrespective of the provisions of Sections 28 to 41 and Sections 43 and 43A of the Act. It is not in dispute that assessee was assessed under the said provision which is applicable in the instant case. For

assessment under this provision, a sum equal to 10% of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head 'profits and gains of the business or profession'. Sub-section (2) mentions two kinds of amounts which shall be deemed as profits and gains of the business chargeable to tax in India. Sub-clause (a) thereof relates to amount paid or payable to the assessee or any person on his behalf on account of provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used in the prospecting for, or extraction or production of, mineral oils in India. Thus, all amounts pertaining to the aforesaid activity which are received on account of provisions of services and facilities in connection with the said facility are treated as profits and gains of the business. This clause clarifies that the amount so paid shall be taxable whether these are received in India or outside India. Clause (b) deals with amount received or deemed to be received in India in connection with such services and facilities as stipulated therein. Thus, whereas clause (a) mentions the amount which is paid or payable, clause (b) deals with the amounts which are received or deemed to be received in India. In respect of amount paid or payable under clause (a) of sub-section (2), it is immaterial whether these are paid in India or outside India. On the other hand, amount received or deemed to be received have to be in India.

From the bare reading of the clauses, amount paid under the aforesaid contracts as mobilisation fee on account of provision of services and facilities in connection with the extraction etc. of mineral oil in India and against the supply of plant and machinery on hire used for such extraction, clause (a) stands attracted. Thus, this provision contained in Section 44BB has to be read in conjunction with Sections 5 and 9 of the Act and Sections 5 and 9 of the Act cannot be read in isolation. The aforesaid amount paid to the assessee as mobilisation fee is treated as profits and gains of business and, therefore, it would be "income" as per Section 5. This provision also treats this income as earned in India, fictionally, thereby satisfying the test of Section 9 of the Act as well.

DECISION OF THE CASE

The Tribunal has commented that Section 44BB of the Act is a special provision for computing profits and gains in connection with the business of exploration of mineral oils. Its purpose was explained by the Department vide its Circular No. 495 dated September 22, 1987, namely, to simplify the computation of taxable income as number of complications were involved for those engaged in the business of providing services and facilities in connection with, or supply of plant and machinery on hire used or to be used in the prospecting for, or extraction or production of, mineral etc. Instead of going into the intricacies of such

computation as per the normal provisions contained in Sections 28 to 41 and Sections 43 and 43A of the Act, the Legislature has simplified the procedure by providing that tax shall be paid @10% of the 'aggregate of the amounts specified in sub-section (2)' and those amounts are 'deemed to be the profits and gains of such business chargeable to tax...'. It is a matter of record that when income is computed under the head 'profits and gains of business or profession', rate of tax payable on the said income is much higher. However, the Legislature provided a simple formula, namely, treating the amounts paid or payable (whether in or out of India) and amount received or deemed to be received in India as mentioned in sub-section (2) of Section 44BB as the deemed profits and gains. Thereafter, on such deemed profits and gains (treating the same as income), a concessional flat rate of 10% is charged to tax. In these circumstances, the AO is supposed to apply the provisions of Section 44BB of the Act, in order to find out as to whether a particular amount is deemed income or not. When it is found that the amount paid or payable (whether in or out of India), or amount received or deemed to be received in India is covered by sub-section (2) of Section 44BB of the Act, by fiction created under Section 44BB of the Act, it becomes 'income' under Sections 5 and 9 of the Act as well.

It is stated. "in the instant case, the amount which is paid to the assessee is towards mobilisation fee. It does not mention that the same is for reimbursement of expenses. In fact, it is a fixed amount paid which may be less or more than the expenses incurred. Incurring of expenses, therefore, would be immaterial. It is also to be borne in mind that the contract in question was indivisible. Having regard to these facts in the present case as per which the case of the assessee gets covered under the aforesaid provisions, we do not find any merit in any of the contentions raised by the assessee. Therefore, the ultimate conclusion drawn by the AO, which is upheld by all other Authorities, is correct, though some of the observations of the High Court may not be entirely correct which have been straightened in the above discussion". For aforesaid reasons, Supreme Court upholds the conclusion. Resultantly, all the appeals of the assessee are dismissed.

Indirect Taxes

CUSTOMS

1. Release of seized goods

Commissioner of Customs Versus M/s. Magus Metals P. Ltd. & Others (Supreme Court)

FACT OF THE CASE

In the years 2000 to November, 2001, 18 different consignments of Copper Concentrate were imported by the respondent-M/s. Magus Metals (P) Ltd., which were duly cleared on being certified by the Chemical Examiner, Chennai, certifying the same to be Copper

Concentrate. Two more consignments were imported on 24.12.2001 and 24.01.2002. It appears that three samples from the said consignments were taken by the Revenue and the respondent claims that while one sample was handed over to it, the remaining two were sent by the Revenue for analysis to Environment Protection Training Research Institute (hereinafter referred to as 'EPTRI') and National Mineral Development Corporation (hereinafter referred to as 'NMDC'). It appears that the reports of the aforesaid two bodies so far as the samples sent by the Revenue is concerned were adverse to the respondent-importer whereas the respondent claims that the sample received by it C. A. No. 5720/ 2008 etc. was also sent for analysis to the EPTRI and the opinion rendered was in its favour. Thereafter, on the basis of the aforesaid reports, Show Cause Notice dated 16.04.2002 was issued proposing confiscation and imposition of penalty under the Act. The aforesaid Show Cause Notice was adjudicated by the Commissioner of Customs on 21.08.2002 holding the goods to be hazardous waste and, therefore, liable for confiscation, penalty, etc.

DECISION OF THE CASE

Held that - the order of the Adjudicating Authority that the samples from the consignments dated 24.12.2001 and 24.01.2002 are hazardous waste and not Copper Concentrate is open to serious doubt, the benefit of which must go in favour of the importer in the light of the totality of the materials on record. Appeal of Revenue dismissed.

2. Levy of CVD on import of silk fabrics

M/s. Prashray Overseas Pvt. Ltd. Versus Commissioner of Customs (Exports) Chennai (Supreme Court)

FACT OF THE CASE

Both the appeals are filed by the Commissioner of Customs under Section 130 of the Customs Act, 1962, challenging a common order passed by the Customs, Excise and Service Tax Appellate Tribunal, holding that imported silk fabrics were not liable for payment of counter veiling duty, during the relevant period, in view of the fact that no duty was payable even on indigenous silk yarn during the material period.

DECISION OF THE CASE

The decision in the case of The Commissioner of Customs (Exports) Versus M/s. Prashray Overseas Private Limited, Customs Excise & Service Tax Appellate Tribunal 2016 (5) TMI 1106 - MADRAS HIGH COURT contested, where it was held that in cases where the exemption Notification stipulates two conditions, namely that the inputs should have suffered duty and that no CENVAT credit should have been availed, then the benefit of the Notification will be available only if both conditions are satisfied. An importer will never be able to satisfy both these conditions and hence, he cannot claim the benefit.

TAX COMPLIANCE CALENDAR AT A GLANCE (3rd QTR)

TAX CALENDER – NOVEMBER

07.11. 2017:

- Due date for deposit of Tax deducted/collected for the month of October, 2017. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

14.11. 2017:

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of September, 2017

15.11. 2017:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of October, 2017 has been paid without the production of a challan.
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2017

30.11. 2017:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of October, 2017.
- Annual return of income for the assessment year 2017-18 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)
- Audit report under section 44AB for the assessment year 2017-18 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
- Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction
- Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during 2016-17.
- Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2016-17) to units holders.
- Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA
- Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB
- Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2016-17. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A
- Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager.
- Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2017).
- Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(2) (if the assessee is required to submit return of income on November 30, 2017)
- Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company has any international/specified domestic transaction]

TAX CALENDER – DECEMBER

07. 12. 2017:

- Due date for deposit of Tax deducted/collected for the month of November, 2017. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

15. 12. 2017:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2017 has been paid without the production of a challan.
- Third instalment of advance tax for the assessment year 2018-19
- Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of October, 2017

30. 12. 2017:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of November, 2017.

GST CALENDER

Notified Due Dates for filing GST Returns

Date	Return Type
20th November, 2017	GSTR-3B for the month of October 2017
30th November, 2017	CMP-03 FORM (Intimation of details of stock on date of opting for composition levy)
11th December, 2017	GSTR-3 for the month of July 2017
11th December, 2017	GSTR-5 for July, 2017
12th December, 2017	GSTR-5A for July, 2017
24th December, 2017	GSTR-4 for the quarter July-September, 2017
27th December, 2017	TRAN-1
31st December, 2017	GSTR-6 for July, 2017
31st December, 2017	GSTR 1 From July 2017-Sept 2017 (for persons with Turnover below 1.5 Crore)
31st December, 2017	GSTR 1 From July 2017-Oct 2017 (for persons with Turnover above 1.5 Crore)
31st December, 2017	GST ITC-04 for the quarter July-September, 2017

WEBINAR CALENDAR UPTO 30TH NOVEMBER 2017

Sl. no	Date	Time	Topic of the Webinar	Name of the Faculty
1	21.11.2017 (Tuesday)	4:00 - 5:00 PM	Recent Amendments under GST - Impact and implications	CMA Chiranjib Das
2	23.11.2017 (Thursday)	4:00 - 5:00 PM	Input Tax Credit	CMA. S. P. Padhi
3	28.11.2017 (Tuesday)	4:00 - 5:00 PM	Books of Accounts under GST scenario	CMA. Vishwanth Bhat

Please note: One CEP hour awarded for attending each webinar

KNOW YOUR RESOURCE PERSON



CMA Dr. Sanjay R Bhargave

CMA Dr. Sanjay Ramchandra Bhargave is a Fellow Member of the Institute of Cost Accountants of India. To his credit, he is having 43 years of experience in the fields like Journalism, Taxation, Cost & Management Accounting, Budgeting, Materials Management, O&M, and Implementing Advanced Management Techniques like KAIZEN, ISO etc.

He has worked at senior position in professionally managed companies. He is a practicing Cost Accountant with specialization in Indirect Taxes and Cost Reduction Techniques.

He has been awarded Ph. D (Doctorate) by Savitribai Phule Pune University on the subject "Tax Planning as a Tool for Cost Reduction, with special emphasis on Central Excise and Service Tax with reference to selected Industrial units in and around Pune"

Career as a Professional

- ✓ Result oriented consultancy and successful track record in Indirect Taxes.
- ✓ Presented papers in many National and International Seminars.
- ✓ Was Chairman - Indirect Taxes Committee of Mahratta Chamber of Commerce, Industries & Agriculture.
- ✓ Director - Genius Management Services Pvt. Ltd.
- ✓ Director-Taxcom Management Consultancy Services Pvt. Ltd.
- ✓ Was member of Accounting Standard Board.
- ✓ Was Chairman of Cost Auditing Standard Board.
- ✓ Was member of the task force set up by Central Board of Direct Taxes for restructuring TDS provisions under Income Tax Act.
- ✓ Is member of Permanent Trade Facilitation Committee established by Customs and Excise Department.
- ✓ Is member of Regional Advisory Committee, Central Excise, Pune Zone.
- ✓ Was member of (South Asia Federation of Accountants) SAFA Committee for Improvement in Transparency, Accountability and Governance.
- ✓ Was Co-Ordinator- Study and Restructure of fees of Medical and Dental Colleges in Maharashtra. Based on the report given by his committee, the

Fees for Medical and Dental colleges were restructured by Govt. Of Maharashtra.

- ✓ Was Co-Ordinator- Study and Design Costing System for Generation, Transmission and Distribution of Electricity for Maharashtra State Electricity Board.
- ✓ Co-Ordinator- Study and designing Costing System for Khadi and Village Industries Commission.
- ✓ Advisor- Study and Design Costing System for Generation - Madhya Pradesh Electricity Generation Company.
- ✓ He was instrumental in Memorandum of Understanding between Institute of Cost Accountants of India and CIMA, London.
- ✓ He was instrumental in getting Certified Filing Centres for Excise and Service Tax to Cost Accountants.



CMA T K Jaganathan

T. K. Jaganathan comes with a rich corporate & CMA practice background of more than three decades. He has been associated with the corporate sector at various middle & senior management levels, with corporates such as Chelpark Group, John Fowler Group, Triveni Engineering Group and Sandhar Technologies Group of companies.

Since last 10 years, he is practicing as a Cost & Management Accountant, and specializes in Cost Audits/Cost Compliance Certifications & System Implementation to clients from diverse sectors such as engineering, sugar & industrial alcohol, Pharma & bulk drugs, steel, auto-components, forging etc. He is also a advisor/consultant on diverse subjects such as Central Excise, Service Tax, Value Added Tax, Risk Advisory, Change Management, Business Process Re-engineering and ERP Costing system implementation.

Specifically on GST, he is not only a faculty on the subject with various eminent institutions, but has also had extensive interactions with the Revenue/Taxation dept. officials sharing with them, the service tax/central excise concepts which are incorporated in the GST law. Presently advising corporate clients on GST compliance matters.

TAXATION COMMITTEE - PLAN OF ACTION

Proposed Action Plan:

1. Train the trainers' program- capacity building of the practicing members of the Institute and others on PAN India basis to equip them on Registration, record maintenance, Filing of different returns and other matters.
2. Carry out webinars for the Capacity Building of Members of the Institute - Trainers in the locality to facilitate the traders/ registered dealers on various practical aspects.
3. Conducting Seminars in association with the Trade associations/ Traders/ Chambers of Commerce at different locations on practical issues/aspects associated with GST.
4. Conducting workshop on industry specific issues with Chambers of Commerce, CREDAI, Jewellers Association, Hotel and Restaurant Association, Bankers' Association and other agencies to resolve their issues instantly.
5. Forwarding suggestions and issues on GST to the Government after getting feedback from various stake holders.
6. Advanced Online/offline Course on GST for Members/Students.
7. The Institute has been conducting a skill Development- Short term course called "Certificate in Accounting Technicians (CAT)" across the country. GST has been included in the CAT Course curriculum. Apart from the CAT Students, the Institute is having students undergoing the CMA Course from across the country. The students of the Institute are being trained in GST and their services can further be used to help the traders across the country. The students of the Institute, who are undergoing training under GST can be used for helping the Traders in filing the GST Returns and Accounting purposes. Around 1.5 lakhs students of the Institute could be used for the above purposes across the country.

Disclaimer:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

The opinion expressed in Article is fully based on the views of the experts. This information is provided for public services only and is neither an advertisement nor to be considered as legal and professional advice and in no way constitutes and attorney-client relationship between the Institute and the User. Institute is not responsible or liable in any way for the consequences of using the information given.

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Behind every successful business decision, there is always a CMA