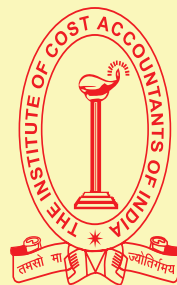


DECEMBER, 2018

# TAX Bulletin



VOLUME - 30



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

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“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 Suggestions and Analysis of various Tax matters for best Management Practices and 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 representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stake holders.

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## FROM THE DESK OF THE CHAIRMAN

Namaskar and Best Wishes!

I welcome you all to the three-day **National Seminar on Taxation** is being organised jointly by The Institute of Cost Accountants of India, Tax Research Department and the Bhubaneswar chapter.

The Theme for the said seminar would be “**Reformed Taxation System – Catalyst to sustained Economic Growth**”.

The other details are as follows

- Date: 21<sup>st</sup> - 23<sup>rd</sup> December, 2018
- Venue: Auditorium of KIIT Campus, Bhubaneswar, Odisha

The Seminar would have a total of five Technical sessions. The sub-themes of the Technical sessions would be:

- Specified Financial Transaction – Tool to Eradicate Black money.
- Transfer Pricing –International Tax Practice in India
- Audit under GST Law
- Advance Rulings on Classification, Supply and Valuation
- Dispute Resolution Mechanism under Direct and Indirect Tax Laws
- TDS and TCS provisions under GST Act.
- Import and Export procedure under Customs Law
- Valuation under Customs Law

The sub themes have been chosen in view of their criticality and linkages with the overall growth agenda of the country. The Seminar will deliberate on micro and specific practical issues within each of the sub themes so as to present a holistic overview of the various facets and the action agenda for the CMAs. Deliberations from Ministers, Government Officials, Industry stalwarts would be the main attraction of the seminar.

During this 3 day Seminar Tax Research Department is all set to release certain note-worthy publication as enlisted below:

- ✓ Revised Handbook on E-way Bill
- ✓ Handbook on Export under GST
- ✓ Guidance Note on GST Audit - Revised Edition
- ✓ Compilation of Notifications under GST
- ✓ Handbook on TDS
- ✓ Handbook on International Taxation and Transfer Pricing

Esteemed presence of members and stakeholders is solicited.

**CMA Niranjana Mishra**

Chairman - Taxation Committee

17<sup>th</sup> December, 2018

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Articles on the Topics of Direct and Indirect Taxation are invited from readers and authors. Along with the article please share a recent passport-sized photograph, a brief profile and the contact details. The articles should be the author's own original.

Please send the articles to

***trd@icmai.in /research.ad1@icmai.in***



## IMPACT OF GST ON THE TRAVEL & TOURISM SECTOR IN INDIA

**CMA Mrityunjay Acharjee**

Vice-President (Accounts, Finance & Taxation), Balmer Lawrie Ltd.

### Introduction

**T**ourism represents world's third largest export avenue in terms of global earnings after fuel and chemicals. Modern tourism is closely linked to socio-economic development. Tourism is responsible for one out of 11 jobs and 10% of the world's economic output. Apart from providing employment, income and **foreign exchange** for the country, the trade in the tourism sector has an economically positive impact on other associated industries such as food manufacturing, services, construction, agriculture, handicrafts etc.

Hospitality is not only a high foreign exchange grosser; it is also among the largest tax generators. There are multiple taxes charged on the same Service/ Product offering by the Central as well as State Governments. It is an understanding that the Taxes levied on Inbound Tourism is among the highest in the country, and this is one of the major reasons for India losing Foreign Tourists to competing South East Asian Countries.

On the historic midnight of 30<sup>th</sup> June 2016, India's PM Narendra Modi ushered the country into the age of GST – 'One Nation One Tax'. Being an impartial tax framework, the effects of GST can be seen across all domains. **The Indian Tourism industry** which was valued at US\$ 136.2 in 2016 has also faced the impact of GST. Endeavour is placed in this article to highlight the GST impact on travel and tourism industry in India.

India's biggest tax reform yet has been met with an equal measure of praise and criticism. While the implementation of the Goods and Service Tax promises to add a significant edge to the economy, by reducing costs for customers, integrating taxes, and reducing business transaction costs, it will also

increase costs for businesses as well the burden of compliance.

The hospitality and tourism industry is one such sector in the economy that is deliberating over the new tax regime. Hospitality is one of the most competitive and steadily growing industries in the country. The tourism industry contributes nearly \$136 billion to India's GDP and is expected to further grow to US\$ 280.5 billion by 2026. Hospitality and tourism are also among the highest employment generating sectors and among the top 10 sectors in the country with the highest volume of foreign direct investment. In addition to being one of the top sources of foreign exchange, tourism is also among the highest tax generating sectors in the country.

### Hospitality sector and GST: Before and after

In the former indirect taxation regime, the state government would first charge VAT, luxury and entertainment tax, while the central government would then levy a whole different set of taxes such as excise duty, service tax, customs duty and central state tax. Consider the VAT, for instance, which is often charged by state governments on a value already including an excise duty. Hence, with different states having their own tax rates, hotels and hospitality businesses had no option to avail an input tax credit since the burden of central taxes cannot be set off against state taxes like VAT, or vice versa.

In the previous regime, a hotel with room tariffs exceeding Rs. 1,000 would be liable to pay 15 percent service tax. A deduction of 40% allowed on the tariff value would bring the effective rate of service tax down to 9%, but its effect was negligible since the VAT and luxury tax would still apply. Such a cascading effect of the tax regime rolls down right



to the end customer, who bears the burden of paying taxes on taxes.

Assigning GST rates for hotels and restaurants against annual turnovers is a progressive move by the authorities. One of the major benefits of GST to the hospitality and tourism sector is that it will eliminate multiple taxation by subsuming all taxes previously levied under one single entity. The promise of 'one nation, one tax' will also increase the ease of doing business in the country with the provision of standardized tax rates and flexible criteria to avail input tax credit.

The rates in the overall hospitality sector, however, have a complex classification and are on the higher end. Since inception the rate applicable for Hospitality and restaurant services is as follows:

#### **RATE OF GST ON FOOD & BEVERAGES (F&B) SALE**

1. 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.
2. Restaurants in hotel premises having room tariff of less than Rs 7500 per unit per day will attract GST of 5% without ITC.
3. 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.

The GST rates for non-AC restaurants are 12% on food, while AC restaurants and those with liquor licence, including restaurants in five-star hotels will be levied with 18% GST. Hotels with room tariffs between Rs. 2,500 and Rs. 7,500 will be charged 18% tax while those with daily tariffs above Rs. 7,500 will be levied a GST of 28%. However, the GST Council have after listening to a number of representation from the Industry, agreed to reduce the rate of services in restaurant at 5%. A detailed study is given towards end of this article.

Dining out will turn cheaper after GST council entered into the issue with the GST Council slashing the tax on restaurant bills. A uniform 5 per cent tax will be levied for all restaurants, both air-conditioned and non-AC made a big relief to the common people. Earlier a 12 per cent GST on the food bill is levied in non-AC restaurants and 18 per cent in air-conditioned ones.

All these restaurants were also given an input tax credit benefit, a facility which sets off tax paid on inputs against the final tax to be paid by consumers. These restaurants, however, did not pass on the input tax credit (ITC) benefit to customers and continued to charge the 12 or 18 per cent GST.

Therefore, the ITC facility is being withdrawn and a uniform 5 per cent tax is levied on all restaurants without the distinction of AC or non-AC, the finance minister explained. Restaurants in starred-hotels that charge Rs 7,500 or more per day room tariff will be levied 18 per cent GST but ITC is allowed for them.

Those restaurants in hotels charging less than Rs 7,500 room tariff will charge 5 per cent GST but will not get ITC,. The Federation of Hotel and Restaurant Associations of India (FHRAI) on Friday said GST Council's decision to cut tax rate for restaurants to 5 per cent without input tax credit will help restaurants across India rationalise tariffs.

Welcoming the move by the council, the apex industry body said it had sought bringing down GST rate on restaurants to 12 per cent with input tax credit or at 5 per cent without input tax credit. This decision of the council was a certainly historic. The very concept of Input Tax Credit (ITC) is central to GST which is to prevent cascading of taxes."

The top tax rate is now restricted to luxury and demerit goods like pan masala, aerated water and beverages, cigars and cigarettes, tobacco products, cement, paints, perfumes, ACs, dish washing machine, washing machine, refrigerators, vacuum cleaners, cars and two-wheelers, aircraft and yacht.

There is good news for budget conscious travellers as small and budget hotels with daily room tariffs of Rs. 1,000 will be exempt from the GST schedule, while those charging up to Rs. 2,500 per day will pay 12. Allotting a lower tax bracket to small restaurants and budget hotels will help them grow and enable them to enhance their service quality and standards on a regular basis. Currently, low to medium budget hotels constitute nearly 80% of India's hospitality market, so a low tax burden on these hotels will also help create thousands of new jobs.

## RATE OF GST ON HOTEL ROOMS

Note – GST is charged based on the Declared Room Tariff which is explained as below:-

*“declared tariff includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.”*

1) RATE OF GST – Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes:-

1. Declared Room Tariff upto Rs. 999/-: GST @ NIL [Remark – No ITC Credit]
2. Declared Room Tariff from Rs. 1000/- upto Rs. 2499/- : GST @ 12% [ITC Credit allowed]
3. Declared Room Tariff from Rs. 2500/- upto Rs. 7499/- : GST @ 18% [ITC Credit allowed]
4. Declared Room Tariff from Rs. 7500/- and above: GST @ 28% [ITC Credit allowed]

[NOTE: GST Rate is decided on the basis of Declared Room Tariff but the tax is chargeable only on the actual amount charged from the customer/ guest]

### **Relevant issues on Hotel Room Tariff:-**

**1:** Will GST be charged on actual tariff or declared tariff for accommodation services?

Declared or published Tariff is relevant only for determining of the Tax Rate Slab. GST will be payable on actual amount charged (transaction value).

**2:** What will be the GST rate if cost goes up (more than declared tariff) owing to additional bed?

GST Rate would be determined according to declared tariff for the room, and GST at the rate so determined would be levied on the entire amount charged from the customer. For example, if the declared tariff is Rs. 7000/- per unit per day but the amount charged from the customer on account of extra bed Rs. 8000/-. GST Shall be charged @ 18% on Rs. 8000/-.

**3:** Where will the declared tariff be published?

Tariff declared anywhere, say on the website through which business is being procured or

printed on tariff card or displayed at the reception will be declared tariff. In case different tariff is declared at different places, highest of such declared tariff shall be the declared tariff for the purpose of levy of GST.

**4:** Same room may have different room tariff at different times depending on season or flow of tourist as per dynamic pricing. Which rate to be used then?

In case of different tariff is declared for different seasons or periods of the year, the tariff declared for the season in which the service of accommodation is provided shall apply.

**5:** If Tariff Changes between booking and actual usage, which rate will be used?

Declared Tariff at the time of supply of the service would apply.

**6:** GST at what rate would be levied if an upgrade is provided to the customers as a lower rate?

If declared tariff of the accommodation provided by way of upgrade is Rs. 10000/-, but the amount charged is Rs. 7000/-, then GST would be levied @ 28% on Rs. 7000/-.

The impact of GST on the hospitality and tourism sector. Review of the status as to how GST will impact the overall hospitality and tourism sector:

1. Easier administration and procedures
2. By subsuming multiple taxes under a single category, GST will abolish the tax-on-tax structure, reduce the complexity of taxation procedures and streamline it.
3. Simplicity for consumers
4. Most average consumers cannot distinguish between multiple taxes and rates. With the GST regime, consumers will have a more comprehensible and transparent tax structure with only a single charge on their bill.
5. Greater technological burden

Among the pros of GST, there are also a few cons that are hard to overlook. One of them is increased burden on service providers to employ technology-based tools for taxation procedures.

While the guidelines on managing accounts and filing returns are well-defined, it will require

businesses to become technologically adept, increasing the burden and cost of compliance.

1. Increased Costs
2. Businesses will increasingly look to recover the additional technology costs from their customers, which may lead to higher tariffs.
3. Lack of competitiveness with other Asian countries

While, GST will make India a bigger player in the global hospitality and tourism industry, there is no global competitiveness in tax rates. Other Asian countries such as Japan and Singapore have much lower tax rates in the hospitality sector (8% and 7% respectively) which is amongst the top reasons why tourists prefer to visit these countries and others such as Malaysia, Thailand, etc.

While the sector remains divided on the predicted impact of Goods and Services Tax, most players in the industry have welcomed the move to the new tax regime with great enthusiasm. The long-term impact, however, remains to be seen and only time will tell how and if GST does accelerate growth in the sector.

#### **How things were Pre-GST for Tourism Sector?**

Before GST was rolled out, the tourism industry was liable to pay multiple taxes (VAT, luxury tax, and service tax). Let us take the example of a hotel whose room tariff is greater than INR 1000, this hotel was liable to charge a service tax of 15%. However, the effective rate of service tax was dragged down to 9% as the Laws under VAT regime gave an abatement of 40% on the tariff value. Next, the Value Added Tax (12-14.5%) and luxury tax were added on top of this.

An abatement of 60% for Restaurants brought the effective rate of interest to 6% on F&B bills, apart from VAT (12-14.5%).

In case of Social functions like seminars, marriages etc the bills were taxed with an abatement of 30% under bundled services.

This VAT tax regime increased the final cost as an end user or customer paid a tax on tax. This was termed as cascading tax for consumer or end user. Tourism businesses and hoteliers could not avail any input tax credit on the taxes they paid, as state taxes like VAT could not be set off against central taxes like service tax and vice versa.

#### **How things are Under GST for Indian Tourism?**

With the motto “**Atithi Devo Bhava**” (‘the guest is equivalent to God’) Indian tourism industry was expected to reap great benefits under the new GST regime. Due to uniform tax rates and better use of input tax credit, the final cost for end-user was perceived to decrease which in turn would attract more foreign tourists. This meant more revenue for the government and assist in the growth of the industry.

However, confusion and lack of lucidity around GST has complicated the process and created trouble for consumers booking hotels during peak tourist season. As per government guidelines hotels with declared tariffs of Rs 7500 and above can charge 28% GST. But hotel owners explained that declared tariff was imprecise and unclear as prices of hotel rooms vary with seasons. Depending on the influx of people hotels could implement new tariffs several times during a year. Hence the term is misunderstood and creates confusion among travellers.

From the inception as recommended by GST Council and subsequently the law that have been framed, **hotels with tariffs less than Rs 1,000 are GST free. Hotel Rooms for Rs 1,000-2,500 are taxed at 12%** while those with a tariff of Rs 2,500-7,500 are liable for 18% tax and those **above Rs 7,500 are taxed at 28%**.

However, it could be understood that hotels depend on tourist seasons for good business, hence the invoice value should be considered for calculating the GST rate in hotels. The tax slabs appear to create confusion among customers and the solution ahead as suggested by experts is to charge taxes on invoice or transaction value rather than the declared tariffs.

#### **Benefits of GST for Tourism Industry**

If properly implemented the GST can prove to be a major benefit for the tourism and hospitality industry. The process to claim and avail ITC (input tax credit) is simple and clear. Earlier, adjusting the tax paid on inputs against the output was complex and error-prone. This is believed to have become easy with GST. Also, under GST, tourists have a clearer idea about the tax they are paying.

In general a large Indian demographic is still taking its first baby steps in accepting and living – a digital

lifestyle. These include people from all sectors – social as well as finance. GST in layman terms makes the government tax revenue generation process better and easier. GST increases costs and compliances for the taxpayer, especially the business owners. Businesses will try to recover the additional cost from their customers. The tax rate on hospitality industry is less than 10% in Japan and Singapore. In order to compete in the global competition, there were suggestions for a GST rate of 5%, but GST Council felt that 18% was the right tax rate.

India has been a hotspot for International and local tourists since ages. India's Tourism and Hospitality industry is set poised to grow to US\$280.5 billion by 2025. By strong implementation and closing prevailing loopholes, the initial setbacks in policy implementation can surely be overcome. For now, let's just hope that the traveller who visits this beautiful country goes back with memories and experiences worth in Gold.

### **GST may not be cohesive to growth**

High GST rates on hospitality will be the "final nail" in the coffin for the sector which is already reeling under demonetization and liquor ban along the highways, according to industry players.

The high incidences of taxes will make India uncompetitive when it comes to tourism as international tourists will skip the country as a destination, they said.

Under the GST rates announced today, 5-star hotels will be charged 28 per cent while AC restaurants and those with liquor lic. Law and Act should be that cohesive that would like countries like Myanmar, Thailand, Singapore, Indonesia and others levy taxes ranging from 5 to 10 per cent. India cannot afford to have these kind of complex and high GST.

### **Understanding the GST Impact**

Tourism sector shall be impacted both positively and negatively under the **GST regime**.

#### **Positive**

##### **1. Uniformity in Taxes**

The multiple taxes would be replaced by one single tax, the rate of which is likely to be between 16%-

18%. The sector may benefit in the form of lower tax rates which should help in attracting more tourists in India.

### **2. Increased Revenue for State Government**

- Under GST the place of supply is shifted to the place where immovable property is situated in case of Hotels, Restaurant & Monuments for sightseeing. This will increase the revenue of such states where immovable property is located. Currently, on such income, States charges local Luxury Tax on hotel stay and VAT on food supplied. While Union Government gets revenue from Service Tax on such services. Because of GST, the States having maximum tourist places, hotels or restaurants for tourist shall earn the maximum revenue by way of SGST which will be equivalent to CGST.
- In the case of Passenger traveling, the state with the maximum outbound journey shall earn the highest revenue so the station or the port having highest outbound flights, train journey or local cab journey shall earn substantial revenue.

### **3. Saving in Food and Beverage operations**

Companies specializing in food and beverages operations could be the biggest beneficiaries of GST within the hospitality sector. Food and beverages bills have multiple components which inflate the bills by 30- 35%. It is expected that GST to result in savings of more than 15-20% on the overall bill.

#### **Negative**

##### **1. Multiple Registration**

Service providers having centralized registration will have to get registered in each state from where they provide services. Although Government has been claiming "One Nation One Tax", practically it is not going to be so. Service providers will have an option to take different registration for separate business verticals which need to be examined on a case by case basis. Every state has been constitutionally granted right to collect GST on services.

##### **2. Increased Compliance Burden**

The procedure for all the invoices/receipts towards inward and outward supplies will become cumbersome as each one of them will have to be

uploaded in the system. The concept of credit matching under GST would be very difficult to handle and would lead to increase in working capital requirements.

The frequency and number of returns to be filed will go up. In place of a half yearly service tax return, under GST law, one will be required to file state wise monthly three GST returns along with an annual return will also be required to be filed.

**3. No Credit on Work Contract Services**

The hotel industry spends a lot of money on construction and renovation. The money paid as taxes on the works contract services when supplied for construction of an immovable property is not allowed for this sector when such services are not used for the further supply of works contract service. This would have a negative cascading effect despite strong promises being made by the government in this regard.

Any proposal to make supplier of goods or services liable to pay tax under reverse charge when receiving supply from an unregistered supplier can increase burden in case of B2B transactions on registered assessee.

**4. Liquor not included**

Liquor should have been included in GST to ensure the seamless credit for the tourism industry. Exclusion of liquor from GST regime defeats the very purpose of bringing in a uniform tax structure across the nation.

**GST on Travel Agents & Tour Operators**

GST on Travel Agents & Tour Operators & its related aspects.

Air Travel Agent

An Air Travel Agent earns two types of income:

1. commission from the Airlines for booking of air tickets;
2. income in the form of processing fees etc. from the client for whom he books the tickets.

So the Air Travel Agent shall be raising below 2 types of invoices containing the details of name, address, GST Registration Numbers of the parties to whom the invoice is being issued and details about Place of Supply.:

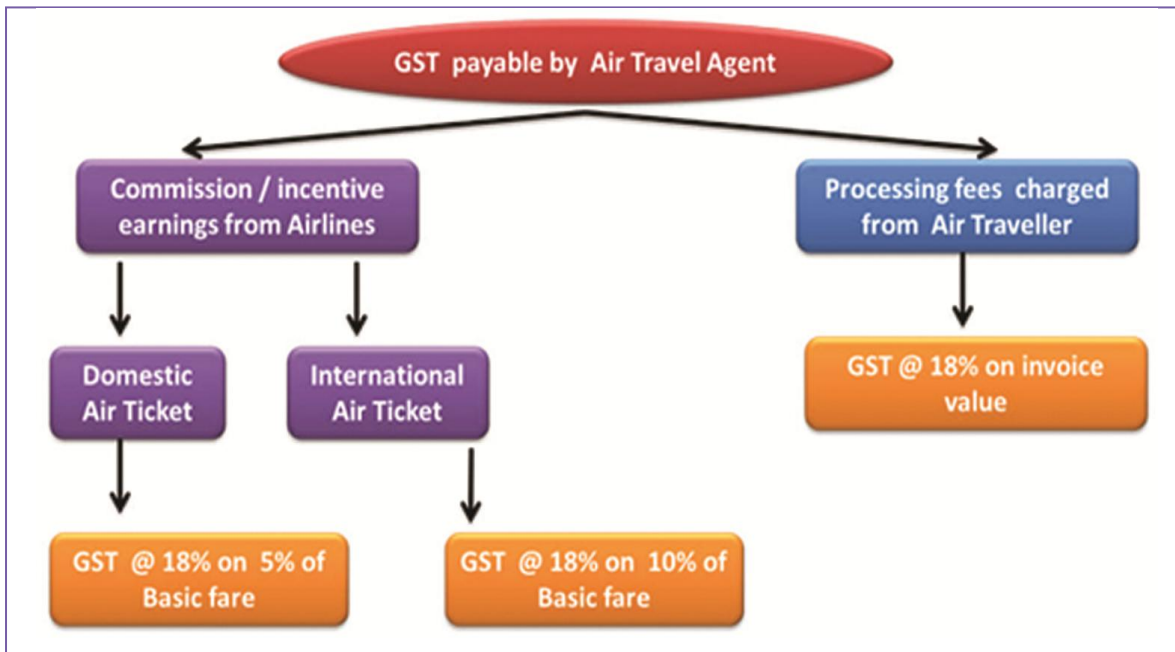
1. On the Airlines for commission for selling its Air tickets;
2. On the Air traveler for its processing fees/ service charges / facilitation charges.

As per rule 32(3) of **CGST Rules**, the value of supply of services in relation to booking of tickets for travel by air provided by **an air travel agent**, shall be deemed to be an amount calculated at the rate of:

1. **5%** of the **basic fare** in the case of **domestic bookings**, and
2. **10%** of the **basic fare** in the case of **international bookings**

**Explanation** – For the purposes of this sub-rule, the expression “**basic fare**” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

**So, GST is payable is as par below chart:**



### **Place of supply for an Air Travel Agent (ATA) for booking tickets to Pax**

When an Air Travel Agent provides services to a person who is:

1. Located in India and the person is registered under the GST law then, the place of Supply shall be the location of service receiver;
2. Located in India but not registered under the GST Law but his address is available on records then the place of Supply shall be the location of the service receiver;
3. Located in India but not registered under the GST Law and his address is not available on records then the place of Supply shall be the location of the service provider;
4. If in case of the Air **Travel Agent** who is located in India but the Origin and Location of Airlines is not from India and the destination as well as location of passenger is not in India.

Then in the given case neither the Airlines nor the passenger will be registered under GST and nor will their address be available from the records, hence in the given case the place of supply shall be the location of service provider i.e. the location of the Air Travel Agent which is in India and hence this transaction would be liable to Tax.

Examples for place of supply in case of an Air travel Agent where ATA receives processing fees / Service charges from the Passenger (Pax):

| Location of Air Travel Agent | Location of the recipient (Pax) | Supply for the Air Travel Agent | Tax to be charged by the Air Travel Agent |
|------------------------------|---------------------------------|---------------------------------|---|
| Delhi                        | Delhi                           | Delhi                           | CGST / SGST                               |
| Gurgaon (Haryana)            | Delhi                           | Delhi                           | IGST                                      |

Examples for place of supply in case of an Air Travel where ATA receives Commission from the Airlines:

| Location of Air Travel Agent | Location of the recipient (Pax) | Supply for the Air Travel Agent | Tax to be charged by the Air Travel Agent |
|------------------------------|---------------------------------|---------------------------------|---|
| Delhi                        | Delhi                           | Delhi                           | CGST / SGST                               |
| Delhi                        | Gurgaon (Haryana)               | Gurgaon (Haryana)               | IGST                                      |
| Delhi                        | London (UK)                     | Delhi                           | CGST / SGST                               |

### **Segment Pay-outs / commission/ incentives from CRS/GDS**

Air Travel Agent also earns Segment Payouts / commission/ incentives from CRS/GDS like Amadeus, Worldspan, Galileo, Abacus for using their software for making booking in Airlines reservations systems which also would be liable for taxation under GST Law

### **Place of supply of services**

1. In case the services are provided by the Air Travel Agents to Indian software companies, then the place of supply of services shall be the location of services receiver i.e. place of registration of Indian Software Company.
2. In case the services are provided by the Air Travel Agents to foreign software companies, then the agent would fall within the definition of “intermediary” AND the place of supply of services shall be the location of services provider i.e. place of Air Travel Agent.

### **VISA AND PASSPORT ASSISTANCE**

The visa processing charges charged by visa statutory authorities i.e. the consulates/embassies will be exempt from the payment of GST.

Visa/passport processing charges charged only by the statutory authorities is exempt from tax.



Visa/passports are done through Visa Facilitation Centers (VFCs) authorized by embassies / Visa Handling Agents then the same shall be liable to tax.

However, when the ATA provides these services to their client after adding further fees by whatever name called he shall be liable to pay tax on them as well and he can take Input Tax Credit of the tax paid to the VFC. GST will be applicable @18% for this service.

### **DOMESTIC AND INTERNATIONAL MEDICLAIM POLICIES AND TRAVEL INSURANCE BY TRAVEL AGENTS**

Travel Agents issues mediclaim policies and travel insurance for clients through various insurance service providers and gets commission on cut and pay basis or at the end of the month (for overseas policies)

### **IMPACT ON CONSUMERS**

In Pre GST era, there was a composite levy of both Service tax i.e 6%, as well as, Value Added Tax i.e 14.5% (Vary from State to State) on food and beverages served by hotels and restaurants which finally put the burden of 20.5% in the pocket of ultimate consumers. However, some relief was provided for Non-AC Restaurants supplying food and beverages as no service tax was levied on these restaurants.

Post GST, the scenario shall be completely different. As discussed above that supply of food and drinks in a restaurant shall be treated as a supply of services. Hence, only GST shall be levied on such services at a lower rate which saves substantial amount as compared to the previous regime.

Further, staying in a good hotel is going to be very costlier as the rate of tax has been doubled from 9% to 18%. Even Luxury Hotels of 5 stars or above-rated charging room rent Rs. 7,500/- or above will attract 28% tax.

### **CONCLUSION**

GST is going to be an efficient and harmonized destination-based tax system and will remove the problems faced by the sector leading to cost optimization and a free flow of transactions.

GST is a glimmer of hope for the Hotel and Tourism Industry if we can keep the GST rate between 10 to 15%. GST might herald with its uniformity of tax rates, a better utilization of input credit which in turn benefits the end user in terms of affordability.



## GST AND INDIAN RAILWAYS

**CMA Shiba Prasad Padhi**  
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### 1. ABOUT INDIAN RAILWAYS (IR)

Indian Railways is India's national railway system operated by the Ministry of Railways. It manages the fourth-largest railway network in the world by size, with 121,407 kilometres (75,439 mi) of total track over a 67,368-kilometre (41,861 mi) route. IR runs more than 20,000 passenger trains daily, on both long-distance and suburban routes, from 7,349 stations across India. In the freight segment, IR runs more than 9,200 trains daily. There are Production units like DLW, CLW, ICF, RCF, DMW, RWF, RWP, RE etc. and 17 Zonal Railways which operate under the administrative control of Railway Board and each of the Railways have multiple Divisions, Carriage Repairing Work Shops (Diesel Locomotive Works) and a Head Quarter.

### 2. APPLICABILITY OF GST LAW TO IR

IR is registered under GST law as Central Government though it is a business entity. A PAN was taken by IR only for registration under GST law for each State and UT. Today IR has 36 registrations and each State/UT has been assigned with a Nodal Officer who is responsible for compliance to GST law. Though a particular Zonal Railways are independent and operates in more than one State, for GST purpose, only state wise transactions are captured and reported for payment of tax, return filing and compliance to GST law.

Transportation of passengers and transportation of goods are the two principal outward supply of services that IR is engaged with. Sl. No. 17 of Notification No. 12/2017, Central Tax (Rates), dated 28.06.2017, service of transportation of passengers, with or without accompanied belongings, by railways in a class other than (i) first class; or (ii) an air-conditioned coach, are taxable. It means travel by passengers in general class, sleeper class or non-AC coaches are not subject to GST. The applicability GST rate for passenger travel and transportation of goods except the following goods attract GST @ 5%.

- a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- b) defence or military equipments;
- c) newspaper or magazines registered with the Registrar of Newspapers;
- d) railway equipments or materials;
- e) agricultural produce;
- f) milk, salt and food grain including flours, pulses and rice; and
- g) organic manure.

### Forward Charge and Reverse Charge Mechanism (RCM)

As per Sl. No. 5 of Notification No. 13/2017, Central Tax (Rates), dated 28.06.2017, services supplied by Railway (Central Government) to a business entity excluding renting of immovable property and transport of goods and passengers shall come under Reverse Charge Mechanism. Sl. No. 5(a) of Notification No. 3/2018, Central Tax (Rates), dated 25.01.2018 further brought in under RCM renting of immovable property services supplied by Railway (Central Government) to a person registered under the CGST Act, 2017. As per this provision, services relating to passenger and freight service and any other service rendered to unregistered



persons only come under forward charge and services like land licensing, parking contracts, renting out of immovable properties, Way leave charges etc. comes under RCM.

### **3. ACCOUNTING SYSTEM THAT IR FOLLOWS**

IR maintains the following CRIS managed soft wares which are customised to the need of IR and also records the transactions relating to all payments and receipts.

1. PRS (Passenger Reservation System)
2. PRS-Catering
3. PMS (Passenger Management System)
4. UTS (Unified Ticketing System)
5. FOIS (Freight Operating Information System)
6. IREPS (Indian Railway e-Procurement System)
7. EPS ( Electronic Payment System)
8. WARR
9. IPAS (Integrated Pay Roll Accounting System)

There are a few manual transactions like Parcel Way Bill, sundry earnings etc. which are recorded using Offline Utility.

### **4. ITC PROVISIONS AS APPLICABLE TO IR**

IR is eligible to ITC on services only and the applicable provision is as under:

T1 – Non-business related

T2 – Exempt

T3 – Restricted

T4 – Eligible fully can only be related to services

C2 – Partial Credit/Common Credit can only be related to services

All input services used for business purpose are apparently available for ITC except restricted items under T3 subject to availability of Original and Valid Tax Invoice. Goods are not eligible for any ITC i.e it can be either T1, or T2 or T3. However, sleepers purchased by IR for onward supply to RVNL, where tax invoice is raised on RVNL, ITC is available only in respect of purchase of such sleepers against the tax liability arise in form of supply of sleepers to RVNL.

#### **T1 (Non-business supply)**

- a. Hospital/Health/Clinical related services
- b. School/education related services
- c. Colony cleanliness/maintenance related services
- d. Staff welfare related services

#### **T2 (Exempt supply related)**

- a. Goods or Services which are used exclusively for exempt supplies like non-AC Coach/ Sleeper/ Second class passenger service;
- b. Goods or Services which are used exclusively for exempt supplies;

#### **T3 (Restricted items)**

- a. Motor vehicles/Hiring charges of vehicles
- b. Food/Catering services
- c. Works Contract (except services in respect to plant and machinery)
- d. Motor vehicles
- e. Life insurance and health insurance of employees
- f. LTC benefit given to employees

**T4- Full Credit in respect of exclusive taxable supply like AC Coach and taxable Freight**

- a. AC Coach Maintenance
- b. Linen services/Bed Roll Services for AC Coach
- c. AC maintenance/AMC in AC Coach
- d. On-board housekeeping services in AC Coach

**C2 (Partial Credit)**

Input services except T3 items like

- a. Telephone
- b. Mobile phone
- c. Mechanising Station cleaning
- d. Cleaning of equipment's
- e. Running room
- f. Consultancy charges
- g. OBHS
- h. Bank charges
- i. AMC of all types
- j. Maintenance Contracts
- k. Courier Service
- l. Data Transmission services
- m. Goods Transport Agency Services
- n. Security Services
- o. Police and Fire Protection Services
- p. Hotel stay by employees/staffs/officers inside Odisha where Invoice contain GSTIN of Ministry of Railway-Odisha

**5. DEBIT NOTE & CREDIT NOTE ISSUED BY IR**

IR issues Debit Note for the following:

- a. Excess Fare Ticket
- b. Railway Receipts
- c. Monet Receipts

IR issues Credit Note for the following:

- a. Cancelled Tickets
- b. Cancelled Railway Receipts
- c. Cancelled Money Receipts

**6. PROVISIONS OF e-WAY BILL AS APPLICABLE TO IR**

As per provisions of Rule 138 (2A), where the goods are transported by railways (whether goods train or passenger train), the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01. Where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery.

As per provision of Rule 138A, copy of e-Way Bill is not mandatory to carry when goods are in movement by rail. However, copy of Invoice or Bill of Supply or Delivery Challan is to be carried for movement of goods by rail. e-Way Bill is not required if Railway is transporting its own goods by rail i.e. when Railway is the Consignor of goods {Rule 138 (14)(I)}

## 7. TAX NEUTRALIZATION

Railways apart from Railway Electrification Divisions, Railway Construction Divisions and Wagon Manufacturing Units (Rail Coach Factory) usually outsource many of their services and award hundreds of contracts at each Division and Office. Contracts in Railways are awarded for Supply of Goods or under Works Contract every year. Usually Works Contracts are awarded on all inclusive basis and payment of all taxes and duties is the responsibility of the Contractor. After implementation of GST, Railway Board advised all Railways to make an impact analysis of GST on the Works Contracts which were awarded before 01.07.2017 (administered date for GST) but execution/payment of which is pending in part or full after this date. Each of the Railway issued an extensive guideline (Joint Procedure Order) for making such impact analysis and tax neutralisation thereof. In a recent Circular bearing No. 2017/CE-I/CT/7/GST, dated 16.04.2017, Railway Board has considered Practising Cost Accountants to certify the Work Sheet of tax liability before GST and after GST. A Contractor can engage a Practising Cost Accountant for such tax impact analysis and certification which is required to make a supplementary agreement based on which payments will be released to the Contractor.

An in-depth study of the Contract Agreement awarded to the Contractor along with Supplementary Agreements or Revised Agreements, if any needs to be studied by the CMA to understand the type of work, period covered, cost elements in respect to manpower, material, machines and tax components etc. under each Schedule. Payments made upto 30.06.2017 can be ascertained from the last Bill cleared by the Railway or considering period of completion if the pricing is firm and can be ascertained in terms of period left.

All the taxes and duties which the Contractor was liable to pay during the pre-GST regime like Excise Duty on material and equipment, CST/VAT on material which was levied at different stages in the value chain, VAT on Works Contract, Entry Tax, Service Tax liability of the Contractor etc. needs a detailed analysis. Rate of taxes and duties, exemption, abatement are to be considered as per their applicability during pre-GST regime. Purchase Invoice, Quotations, Scheduled Rate of material of different authorities are the likely sources to know the unit rate and applicable tax rates in many cases. VAT Returns, CST Returns, Entry Tax Returns, Service Tax Returns, Excise Returns filed during the pre-GST regime can help one to understand the applicable tax rate for inward and outward supply made by a Contractor in the erstwhile tax regime.

Input Tax Credit (ITC) available to the Contractor (whether availed or not by the Contractor by filing return), both in pre-GST and GST regime on the balance value of Works Contract is to be adjusted while making such tax impact analysis.

### Reference

1. [https://en.wikipedia.org/wiki/Indian\\_Railways](https://en.wikipedia.org/wiki/Indian_Railways)
2. [http://www.indianrailways.gov.in/railwayboard/view\\_section\\_new.jsp?lang=0&id=0,1,304,366,498,1891](http://www.indianrailways.gov.in/railwayboard/view_section_new.jsp?lang=0&id=0,1,304,366,498,1891)
3. <http://www.cbic.gov.in/htdocs-cbec/gst/central-tax-rate-notfns-2017>
4. Circulars issued by Railway Board from time to time as available in public domain



## GST IN MARRIAGE PARTY

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India is known for its rich traditions, vibrant culture, colorful festivals and big fat weddings across the globe. Gone are the days when marriages were celebrated and organized by the family members, friends, neighbors and members of close communities. In the present market economy it has taken the shape of a big commercial activity which involves combination of both '**mixed and composite**' supplies as described below:

- Wedding planners,
- Designer clothes, suiting & shirting
- Gold, Diamond and others
- Catering, sweets, fruits and dry fruits
- Decorations, florists
- massive shopping of households which include Clothe, garments, utensils, furniture, electronic gadgets, cars, bikes/scooters/cycles and so on.
- Videographer, photography and pre-wedding photo shoots
- Music parties, artists, dancers and band troops
- Bridal Makeup, Mehndi (Henna)
- Invitation Card, Printing
- Transport,
- Hotels, Guest Houses and marriage palaces
- Destinations marriages

As per one estimate around 10-12 million marriages are being organized in India every year and on an average 200-500 guests per marriage are invited. Demographically, India is set to become the youngest country in the world by 2020, with a median age of 29 years. This demographic dividend would give a boost to the wedding industry as majority people marry in India between 21- 30 years of age. Estimates show that marriage Industry is growing at an average rate of 25% per year.

In India, in wedding celebrations everyone spends beyond his/her capacity without thinking about any returns. Every manufacturer, retailer and service provider, dealing in marriage related goods or services eagerly wait for the wedding season. Three decades ago people hardly thought about the lavish wedding function that has now become a trend and may be a compulsion under social pressure. With each passing day the Indian weddings are being organized with great pump and show and budgets are showing upward trend accompanied by evils like unnecessary competition, show off, wastage of food, dowry, traffic hazards and litigation. Keeping aside all arguments everyone looks forward to be a part of it.

**As per rough estimates, the statistics of wedding market in India are as under:**

|  |                        |
|--|------------------------|
| No. of Indian marriages in a year            | : approx 10.00 million |
| Gold and Diamond jewellery market worth      | : Rs 90,000 crore      |
| Apparel market (wedding) worth               | : Rs 50,000 crore      |
| Durable goods market worth                   | : Rs 30,000 crore      |
| Hotel and other wedding related market worth | : Rs 7,000 crore       |
| Pandal and venue decoration market           | : Rs 10,000 crore      |
| Wedding invitation card market               | : Rs 10,000 crore      |
| Bridal Mehendi market in India               | : Rs 5,000 crore       |
| Entertainment/Music groups                   | : Rs. 1,000 crore      |
| Photography/Videos                           | : Rs. 1,500 crore      |
| Others items                                 | : Rs. 5,000 crore      |

(Include dholwala, ghodiwala, fireworks, pooja, maids, donations, carriage, other preparations etc.)

Total Indian wedding market is of worth : **Rs 2,09,500 crore**  
=====

**Item-wise average expenses on Indian weddings are:**

- Dinner cost (average) : Rs 700 to 2000 per person
- Pandal decoration cost : Rs 10,000 to 25,000
- Bridal designer saree/lehnga cost : Rs 5,000 to 50,000
- Designer shervani cost : Rs 15,000 to 40,000
- Wedding invite cost : Rs 100 to 1500 per card
- Bridal make up cost : Rs 5000 to Rs 50,000
- Bridal Mehendi cost : Rs 1500 to Rs 5000
- Donation/fee (dakshna) to Panditji, to advocate for marriage registration is separate.

***Liquor license fee, cost of liquor and related services and cost of petrol/diesel are separate and not included in it.***

***Security guards, wallet car parking, Marriage resorts, exotic beach marriages, live telecast of marriage, drone camera, hiring choppers, limousines etc. are new add on features to the Indian marriage functions.***

**Destination Wedding Cost:**

|                                     |                                   |
|-------------------------------------|-----------------------------------|
| Goa wedding cost                    | : between Rs 1 crore to 1.5 crore |
| Jaipur wedding cost                 | : between Rs 1 Crore to 2.0 crore |
| Wedding cost in metropolitan cities | : Between Rs 20 lakh to 70 lakh   |

Favorite honeymoon destinations are Goa, Jaipur, Udaipur, Himachal and South.

On an average 30 to 40 grams of gold is gifted by parents or relatives in every marriage across the country, thus the total consumption of gold comes between 300 to 400 tonnes annually. It is also expected that the per capita income will be tripled in a couple of decades and the per capita consumption of gold during weddings or otherwise will increase. With half of India's population being under 29 years of age, the marriage market is set to boom like never before over the next five to ten years. One estimate says that an Indian spends **one fifth** of the wealth accumulated in a lifetime on a wedding ceremony. That means, a tremendous opportunity for business players is there to capitalize on marriages.

Online portals like Shadi.com, Bharat matrimonial etc. and others rack up revenues of Rs. 300-350 crore from match-making annually, and they are of the view that it will go further. While the traditional tentwallas still rule the market, the creative wedding planners are also making the most of it. They make all arrangements required for a wedding, from beginning to end, for a good professional fee. Every stakeholder from entertainment to décor, beauty clinics, cosmetic giants, travel, tourism, event managers, hotels and even matrimonial web sites are making good money out of marriages. There are budget planners also, who cater to the needs of the middle class of the country. Now a days, NRIs and foreigners also contribute a lot to boost up marriage industry in India.

Recent trends show that Indian weddings are getting bigger thus offering better lucrative business opportunity to all players involved. These business players offer a blend of modern technology with traditional touch and make the marriages arrangements more attractive and enjoyable.

Marriages being a subject matter of love and affection, emotions, social need and self respect make it a recession proof industry. Most of the activities in marriage are performed with human interface hence create jobs for both skilled and unskilled people. It's one of the biggest contributors to the GDP of the country.

Considering the size of marriages and arrangements needed, it's a big project for a family and need good management and coordination. With more and more awareness and high paying capacity of people, especially the young brigade, everyone wants value for money and hire professional services to make it memorable. As mentioned earlier, goods and services required at marriage are combination of both 'mixed and composite' supplies. Such supplies are subject to GST and introduction of GST has made marriages costly by 10-15%. Tax on gold and diamond has gone up from 1.6% in pre-GST regime to 3% and on labor charges of ornaments, GST is 5%. Similarly, on other services tax has gone up by 3% from 15% to 18%.

As per the activities listed above, most of the services are subject to GST @ 18%. A few are in the category of 28%, 12%, 5% and 3%. If the size of the industry is Rs. two lakh crore than minimum estimated revenue from the marriage activities is Rs. 25,000/- crore which will increase further if we get absolute data of the industry. GST rates as applicable to above said services are as under:

| Items/Services                               | Estimated Mkt. Value | GST Rate | HSN/SAC                 |
|--|----------------------|----------|-------------------------|
| Gold and diamond jewellery market worth      | Rs 90,000 crore      | 3%       | 7108                    |
| Apparel market (wedding) worth               | Rs 50,000 crore      | 5%-12%   | 58,59, 60,61            |
| Durable goods market worth                   | Rs 30,000 crore      | 12%-18%  | 42, 84, 85,87           |
| Hotel and other wedding related market worth | Rs 7,000 crore       | 12% -28% | 9963,9971<br>9985, 9966 |
| Pandal and venue decoration market           | Rs 10,000 crore      | 18%      | 9963, 9954              |
| Wedding invitation card market               | Rs 10,000 crore      | 18%      | 48, 49, 9968            |
| Bridal Mehendi market in India               | Rs 5,000 crore       | 18%      | 07, 9997                |
| Photography/Videos, Cultural Activities      | Rs 1,500 crore       | 18%      | 9983, 9996              |
| Other items                                  | Rs 5,000 crore       | 5%-18%   | 9997, 9984,<br>9998,    |

As this industry is growing @ 25% per annum, GST will also increase in the same proportion. At present many service providers are working in an unorganized sector but the way industry is growing every year, all these service providers has to come under GST ambit and revenue of the government will increase. It is also a fact that marriages performed in remote parts of the country remain unaccounted. Otherwise this size will increase further.

All the marriages do not have a happy ending. According to an estimate 13 out of 1000 marriages in India end up in divorce because of varied reasons adding to demand of legal services. Though these services are not subject to GST but indirectly contribute to exchequer kitty.

Keeping in view everything, it is always advisable to plan your marriage wisely to enjoy maximum return in the form of happiness, charm and joy for the taxes paid on marriage function. Neither we nor government will gain from a ill-fated policies. There is a need to balance everything in market so that economy grows with our emotions, sentiments, traditions, rich culture, celebrations and taste of India as both are complementary to each other.

*“King must collect taxes like honey bee, it should be enough to sustain but not too much to destroy.”*

**Chanakya.....**

At the end I must say that...

*Marriages are settled in heaven but taxed on Earth*



## NEW DIMENSIONS TO GST ANNUAL REPORT & GST AUDIT

**CMA Navneet Kumar Jain**  
Practicing Cost & Management Accountant

The article is an attempt to explore the untouched areas in the GST Audit arena. The companies have started the GST audit processes and are focusing on GSTR 9 (It will be given by the system later) and GSTR 9C but somehow companies are missing the vital links for the GST Audit.

The articles has touched upon the following areas:

- a) Revenue Mappings
- b) Quantitative mappings
- c) Alignment of GST data with Income tax returns, income tax audit reports, cost audit annexures (Cost records) and Annual return being filed under Companies Act (AOC-4)
- d) Valuation on cost plus basis

At the outset, the readers are requested to ponder as to which are the different returns/documents that are filed with any ministry periodically at HSN codes level. Most of the persons are aware that GST returns are filed on HSN code basis. Filing of Annual GST returns in GSTR 9 form and reconciliation format in GSTR 9C is likely to smoothen process for future filings under GST regime but it needs to be noted that all the relevant issues are ironed out before filing of GST Annual return and GST reconciliation format along with GST Audit report to avoid any problems at later stages.

It needs mention that GST data has been aligned with Cost Records data, Financial Data, Income Tax Data etc. The directors/concerned officers must ensure and ask the GST auditors to ensure alignment of the data being reported under different statutory returns. In case variances are detected at a later stage by the department, it may pose problems for GST Auditors and company.

Till date, the industry, the consultants and the GST officers have somehow forgotten the fact that HSN

codes wise Revenue and quantitative details are being reported in GST returns and Cost Records maintained under section 148 of the companies Act wherever applicable and the both must match or reconciliation must be ready. Not only this the quantitative details are required to be reported in Companies' Annual return AOC-4 in sheet QD. Also, in Income Tax Audit Form 3CD, the quantitative details are required to be mentioned. It needs to be seen that the data in GSTR 9, Income Tax return of companies (ITR 6) & Form 3CA CD and the Cost Records (Annexure B-1) are aligned. For the year 2017-18 some reconciliation will be required to be made.

The HSN code wise itemised level data is required to be prepared under section 148 of the Companies Cost Records and Audit Report Rules 2014 and is reported to MCA under different annexures mandated under section 148 of Companies Act through CCRAR 2014.

All the registered assesses are required to file GSTR 9 Annual Return.

Before filing of GSTR 9 & GSTR 9C one must ensure that data being reported in the following statutory document do match and in case of differences, proper reconciliations are made with each other.

- a) Revenue as per GSTR 3B
- b) Revenue as per GSTR 1
- c) Revenue as per financials for the respective period aligned with yearly figures
- d) Revenue as per Tax Return
- e) HSN code wise revenue as is being shown in the cost records in Annexure no A-4 and/or filed with Ministry of Corporate Affairs after approval from the Board of Directors



Not only the revenue but the quantitative details as are being reported in GSTR 9 in HSN sheet must match with the data being reported through cost records.

### **GSTR Annual return & GST Audit provisions**

As per Section 44(1) of the CGST Act, 2017, every registered person, other than an Input Service Distributor, a person paying tax under Section 51 (TDS Collector) or Section 52 (TCS Collector), a casual taxable person and a non-resident taxable person, shall furnish an Annual Return for every financial year on or before the 31st day of December following the end of such financial year. The Government vide Notification No. 39/2018 – Central Tax dated September 4, 2018 has notified the format of Annual Return Form GSTR-9 (for normal taxpayers) and Form GSTR-9A (for composition taxpayers). The date for 2017-18 has been extended

Further, every registered person whose aggregate turnover during a financial year exceeds INR 2 crores shall get his accounts audited and furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, format of which is also notified vide Notification No. 49/2018 – Central Tax dated September 13, 2018.

### **Alignment of Cost Records and GST records for quantitative data**

The companies manufacturing the products like Steel, copper, drugs, fertilizers etc or providing specific services like health care education are required maintain cost records as per the notification issued by MCA on 30<sup>th</sup> June 2014 as amended from time to time.

Recently on 3rd December, 2018 vide G.S.R. 1157(E), MCA brought in a far reaching change in the Companies Cost Records and Audit Report Rules, 2014 which mandated that the Unit of Measurement (UOM) for each Customs Tariff Act Heading, wherever applicable, shall be the same as provided for in the Customs Tariff Act, 1975 (51 of 1975) corresponding to that particular Customs Tariff Act Heading.”; This notification has paved the way for final integration of quantities as are being reported in the GST returns and quantitative annexures in the cost records. We can take the example of HSN code 7301 20 10 --- Steel slotted

angles the UQC must be mentioned in kgs and not in size and numbers.

MCA had issued another notification on 20<sup>th</sup> Dec 2017 which has paved the way for alignment of Cost Records with GST records after the implementation of GST. The **Companies Cost Records & Audit Rules 2014** (CCRAR) earlier referred to CETA whereas in the GST regime, presently most of the chapters of Central Excise Act do not exist except for few Chapters. Now with the issue of the notification on 20<sup>th</sup> Dec 2017, the CETA Headings have been replaced with Customs Tariff headings (Refer Extract 1)

It also needs mention that “heading”, in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of **tariff items** the first four-digits of which correspond to that number and tariff item means a description of goods in the list of tariff provisions accompanying **eight-digit number**.

### **No of digits of HSN codes for reporting purposes:**

Summary of supplies effected and received against a particular HSN code to be reported only in table No. 17 of GSTR 9. It will be optional for taxpayers having annual turnover upto ₹1.50 Cr. It will be mandatory to report HSN code at two digits level for taxpayers having annual turnover in the preceding year above ₹1.50 Cr but upto ₹5.00 Cr and at four digits’ level for taxpayers having annual turnover above ₹5.00 Cr. UQC details to be furnished only for supply of goods. Quantity is to be reported net of returns. The same details are required to be reported in GSTR 1 returns.

It needs mention that in B-1 of the Annexures to the cost audit report, the HSN codes wise quantitative details are required to be reported showing the same UQC (Unit Quantity Code) as is being shown in the GSTR 1 & GSTR 9.

A question is being raised by different quarters that whether the cost data is required to be maintained at four-digit level (heading) or at eight-digit level (tariff item). It needs mention that for the year 2016-17, the costing data was required to be maintained at eight-digit level of CETA. Also, the revised business rules for XBRL had mandated eight-digit codes. The concerned rule reads like “*The concatenated “CETA Code of Manufactured Product” and “Subheading of CETA Code” shall be a valid 8-digit CETA code*”. Under the GST regime also



the maintenance of cost records may be kept at eight-digit level and reporting at four-digit level.

For the 2017-18, the data to be reported to MCA will be from two different indirect tax regimes, April 2017 to June 2017 from Excise/VAT and from July 2017 to Mar 2018 from **GST regime**. The backup of the data need to be kept separately and then consolidated for the purpose of reporting to Ministry of Corporate Affairs under CCRAR 2014, wherever applicable.

One need not forget that any organization dealing in export or import is required to keep the data at eight-digit level as per the Customs Tariff Act.

Under GST for the sake of convenience initially, the government may have allowed the data to be maintained at four-digit level, but in future GST authorities may ask for the data at the eight-digit level as the reference to the Customs Tariff has been made in the GST notifications.

**Suggestion:** The companies which have to follow Companies Cost Records and Audit Rules 2014 are required to maintain the data at the product level and then at tariff heading level for reporting to MCA, these companies should keep maintaining the data at Eight Digit Level also.

GST regime also referred to Customs Tariff Act as given below (Extract 2) for the purpose of imposition of rates on various types of commodities. Though, the GST rates notification have shown four digits and GST rates have been mentioned at the four-digit levels i.e. headings but it needs mention that a reference to the “Tariff item”, “sub-heading” “heading” and “Chapter” has also been made in the same notification and

#### **Extract 1**

**Extract of Notification no. G.S.R. 1526(E). dated 20<sup>th</sup> Dec 2017 issued by Ministry of Corporate Affairs is given below:**

In the Companies (cost records and audit) Rules, 2014 (hereinafter referred to as the principal rules), in rule 2, for clause (aa) the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely: –

(aa) “Customs Tariff Act Heading” means the heading as referred to in the Additional Notes in the

First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

In the principal rules, in rule 3, for the words “Central Excise Tariff Act Heading”, occurring at both the places, the words “Customs Tariff Act Heading” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017.

In the principal rules, in the Annexure, in Form CRA-2, Form CRA-3 and Form CRA-4, for the words “CETA Heading”, wherever it occurs, the words “CTA Heading” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017.

#### **Extract 2**

**Extracts from Notification No.1/2017-Integrated Tax (Rate) New Delhi, the 28th June, 2017 & Notification No.1/2017-Central Tax (Rate) New Delhi, the 28<sup>th</sup> June, 2017**

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). (iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification. 2. This notification shall come into force with effect from the 1<sup>st</sup> day of July, 2017.

#### **Explanatory/Additional Notes of the First Schedule of The Customs Tariff Act**

The Additional Notes in the First Schedule of The Customs Tariff Act 1975, explains the different terms as follows:

- a) “heading”, in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;
- b) “sub-heading”, in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number;

- c) “tariff item” means a description of goods in the list of tariff provisions accompanying eight-digit number and the rate of customs duty;

The maintenance of records especially financial and statistical records under any statute is of utmost importance. The records provide an insight into the functioning of the organisation and ensure the various stake holders about the health of the organisation.

#### **Whether records relating to manufacturing are required to be maintained in GST era**

The duty liability under Excise Act arose on the manufacture of goods whereas under GST the liability to pay GST arises primarily on supply of goods or services. As the point of liability of taxation under GST has shifted from Manufacture to Supply, some persons were of the view that there is no requirement to keep separate records for manufacturing and Trading, however, one needs to go through the various provisions/forms under various Acts to check whether records pertaining to manufactured goods are required to be maintained separately or not.

The implementation of GST has brought to the fore many questions for companies having trading as well as manufacturing activities like

- a) whether a company is required to maintain records of Raw materials separately or can it be merged with the other records like records of trading items etc. and no separate records for raw materials and trading goods are required to be maintained as was required under erstwhile Excise regime.
- b) whether a company is required to maintain records of manufactured/Finished goods separately or can it be merged with the other records like records of trading items etc. and no separate records for manufacturing are required to be maintained as was required under erstwhile Excise regime.
- c) Whether there is reporting of manufacturing goods separately under GST or any other Act.

With the implementation of GST, the assesses are required to map the HSN code wise data as per GST (Trading and/or manufacturing) with the HSN Code

wise costing data which is being reported to Ministry of Corporate Affairs (Primarily with regard to manufactured goods).

It needs mention that HSN code wise data is being reported to CGST (Central Government) & UTGST/SGST (State Governments) authorities through GST returns and the HSN code wise data will be reported to Ministry of Corporate Affairs, Government of India.

CGST Act has specifically defined “manufacture”, the definition is given below”

Definition of Manufacture under Section 2(72) CGST Act states

“manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly.

#### **ACCOUNTS AND RECORDS:**

Please refer to the section 35 of CGST Act that specifically mandates the maintenance of data with regard to the production and manufacture of goods & inward and outward supply of goods separately.

(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- **production or manufacture of goods;**
- inward and outward supply of goods or services or both;
- stock of goods;
- input tax credit availed;
- output tax payable and paid; and
- such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

Sec 147 of the CGST Act specifically mandates the importance of keeping the data with regard to the manufacturing separately if the sale of the product is required to be considered as deemed export. The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

### **Monthly Production Accounts**

Rule 56(12) of CGST Rules states that every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

Rule 56(13) rule state that every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

GST registration forms and other forms specifically ask the assesses to register themselves as manufacturer and/or trader etc.

### **Valuation: Value of supply of goods or services or both based on cost**

Though CGST Act and CGST rules have provided the specific provisions with regard to the valuation of supplies based on transaction value/Transaction value primarily yet Rule 30 of CGST rules states that Where the value of a supply of goods or services or both is not determinable by any of the preceding valuation rules the value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

### **Documents to be made available to the Audit Teams under GST**

Cost Audit Report is one of the documents which will be required to be submitted to the Special Auditor under GST Act or to the

As per section 71(2) every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorized under sub-

section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66 - such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

trial balance or its equivalent;

statements of annual financial accounts, duly audited, wherever required;

cost audit report, if any, under section 148 of the Companies Act, 2013;

the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and

any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.



## SOURCE DOCUMENTS AND CRUCIAL AREA UNDER ANNUAL RETURN GSTR-9

**CMA Jasraj B Kuleriya**  
Practicing Cost Accountant

- A. CBIC, vide Notification No. 39/2018- Central Tax dtd. 4<sup>th</sup> September, 2018 has notified the Form of Annual Return. GSTR 9 is to be filed once in a year by the registered taxpayers, including persons registered under composition levy scheme, under Section 44 of the CGST Act, 2017.
- B. It consists of details regarding the supplies made and received during the year under different tax heads i.e. CGST, SGST and IGST. It consolidates the information furnished in the monthly/quarterly returns during the year.

GSTR-9 is to be filed on or before 31st December of the subsequent financial year. Therefore for FY 2017-18, the due date for filing GSTR 9 is 31<sup>st</sup>December 2018.

- C. As per Section 44 (2) of The CGST Act, 2017, Every registered person who is required to get his accounts audited in accordance with the provisions of Section 35 (5) of this act shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.
- D. As per Section 44(1) of CGST Act, every registered person shall be required to file GSTR-9. Hence, if a Taxpayer has obtained multiple GST Registrations whether in one state or more than one state, it shall be treated as a distinct person in respect of each such registration as per section 25(4) of CGST Act. Hence, GSTR-9 is required to be filed separately for each such GSTIN
- E. Types of Return under GSTR-9:
- **GSTR 9:** GSTR 9 is to be filed by the **regular taxpayers** filing GSTR 1, GSTR 2, GSTR 3.
  - **GSTR 9A** – GSTR 9A is to be filed by the persons registered under **composition scheme** under GST.
  - **GSTR 9B** – GSTR 9B is to be filed by the **e-commerce operators** who have filed GSTR 8 during the financial year.
  - **GSTR 9C** – GSTR 9C is to be filed by the taxpayers whose annual turnover exceeds Rs 2 Crores during the financial year. All such taxpayers are also required to get their accounts audited and file a copy of audited annual accounts and reconciliation statement of tax already paid and tax payable as per audited accounts along with GSTR 9C.

### F. Details to be provided in GSTR-9

GSTR-9 contains total 6 parts spread out within 19 Tables. Details required in each part are as below:

| Sr. No. | Parts of the GSTR-9 | Information required           | Table No. of respective PART of the GSTR-9 | Table to be referred in GSTR-1 or GSTR-3B and Others | Source Document                       |
|---------|---------------------|--------------------------------|--|--|---------------------------------------|
| 1       | Part-I              | Basic details of the taxpayer. | -----                                      | -----  | These details will be auto-populated. |

| Sr. No.                                       | Parts of the GSTR-9                       | Information required  | Table No. of respective PART of the GSTR-9   | Table to be referred in GSTR-1 or GSTR-3B and Others           | Source Document   |
|---|---|---|--|--|---|
| 2   | Part-II                                   | Details of Outward and Inward supplies declared during the financial year (FY). This detail must be picked up by consolidating summary from all GST returns filed in previous FY. | 4(A): Supplies made to un-registered persons (B2C)   | Table 5, 7 & 10 of GSTR-1                                      | a. Outward supplier from GSTR-1<br>b. RCM details from GSSTR-3B<br><br>Note: Value as per GSTR-3B and GSTR-1 must align |
|   |   |   | 4(B): Supplies made to registered persons (B2B)  | Table 4A and 4C of GSTR-1                                      |   |
|   |   |   | 4(C): Zero rated supply (Export) on payment of tax (except supplies to SEZs)                                   | Table 6A of GSTR-1   |   |
|   |   |   | 4(D): Supply to SEZs on payment of tax   | Table 6B of GSTR-1   |   |
|   |   |   | 4(E): Deemed Exports   | Table 6C of GSTR-1   |   |
|   |   |   | 4(F): Advances on which tax has been paid but invoice has not been issued (not covered under (A) to (E) above) | Table 11 of GSTR-1 and Statement of Advance Adjustment if any. |   |
|   |   |   | 4(G): Inward supplies on which tax is to be paid on reverse charge basis                                       | Table 3.1 (d) of GSTR-3B                                       |   |
|   |   |   | 4(I): Credit Notes issued in respect of transactions specified in (B) to (E) above (-)                         | Table 9B and 9C of GSTR-1                                      |   |
|   |   |   | 4(J): Debit Notes issued in respect of transactions specified in (B) to (E) above (+)                          | Table 9B and 9C of GSTR-1                                      |   |
|   |   |   | 4(K): Supplies / tax declared through Amendments (+)   | Table 9A of GSTR-1   |   |
|   |   |   | 4(L): Supplies / tax reduced through Amendments (-)  | Table 9A of GSTR-1   |   |
|   |   |   | 5(A): Zero rated supply (Export) without payment of tax  | Table 6A of GSTR-1   |   |
|   |   |   | 5(B): Supply to SEZs without payment of tax  | Table 6B of GSTR-1   |   |
|   |   |   | 5(C): Supplies on which tax is to be paid by the recipient on reverse charge basis                             | Table 4B of GSTR-1   |   |
|   |   |   | 5(D): Exempted   | Table 8 of GSTR-1  |   |
|   |   |   | 5(E): Nil Rated  | Table 8 of GSTR-1  |   |
|   |   |   | 5(F): Non-GST supply   | Table 8 of GSTR-1  |   |
|   |   |   | 5(H): Credit Notes issued in respect of transactions specified in A to F above (-)                             | Table 9B and 9C of GSTR-1- If disclosed in return              |   |
|   |   |   | 5(I): Debit Notes issued in respect of transactions specified in A to F above (+)                              | Table 9B and 9C of GSTR-1 If disclosed in return               |   |
|   |   |   | 5(J): Supplies declared through Amendments (+)   | Table 9A of GSTR-1 If disclosed in return                      |   |
| 5(K): Supplies reduced through Amendments (-) | Table 9A of GSTR-1 If disclosed in return |   |  |  |   |
| 3   | Part-III                                  | Details of ITC declared in returns filed during the FY.   | 6(A): Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)    | Auto Populated   | a. ITC as per GSTR-3B and Purchases register  |

| Sr. No. | Parts of the GSTR-9 | Information required  | Table No. of respective PART of the GSTR-9  | Table to be referred in GSTR-1 or GSTR-3B and Others  | Source Document  |
|---------|---------------------|---|---|---|--|
|         |                     | This will be summarized values picked up from all the GST returns filed in previous FY. | 6(B): Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)          | Table 4(A) (5) of GSTR-3B   | b. TRAN-I<br>c. Reconciliation between Purchases Register and GSTR-2A  |
|         |                     |   | 6(C): Inward supplies received from unregistered persons liable to reverse charge (other than B above) on which tax is paid & ITC availed | Table 4(A) (3) of GSTR-3B   |  |
|         |                     |   | 6(D): Inward supplies received from registered persons liable to reverse charge (other than B above) on which tax is paid and ITC availed | Table 4(A) (3) of GSTR-3B   |  |
|         |                     |   | 6(E): Import of goods (including supplies from SEZs)  | Table 4(A) (1) of GSTR-3B   |  |
|         |                     |   | 6(F): Import of services (excluding inward supplies from SEZs)  | Table 4(A) (2) of GSTR-3B   |  |
|         |                     |   | 6(G): Input Tax credit received from ISD  | Table 4(A) (4) of GSTR-3B   |  |
|         |                     |   | 6(H): Amount of ITC reclaimed (other than B above) under the provisions of the Act  | Table 4(A) (5) of GSTR-3B   |  |
|         |                     |   | 6(K): Transition Credit through TRAN-I (including revisions if any)   | TRAN-I and Amount Credited in Electronic Credit Ledger due to TRAN-I                                  |  |
|         |                     |   | 6(L): Transition Credit through TRAN-II   | TRAN-II and Amount Credited in Electronic Credit Ledger due to TRAN-II                                |  |
|         |                     |   | 6(M): Any other ITC availed but not specified   | Table 4(A) (5) of GSTR-3B   |  |
|         |                     |   | 7(A to H): Details of ITC Reversed and Ineligible ITC as declared in returns filed during the financial year                              | Table 4(B) of GSTR-3B   |  |
|         |                     |   | 8(A to J): Other ITC related information  | Reconciliation between Purchases Register and GSTR-2A   |  |
| 4       | Part-IV             | Details of tax paid as declared in returns filed during the FY.                         | Details of tax paid as declared in returns filed during the FY.   | Tax Head wise Prepare Summary of Tax Payable and Paid with method of ITC utilization and cash payment | a. Payable and paid details as per GSTR-3B<br>b. Electronic Liability Ledger<br>c. Electronic Cash Ledger<br>d. Electronic Credit Ledger |

| Sr. No. | Parts of the GSTR-9 | Information required   | Table No. of respective PART of the GSTR-9  | Table to be referred in GSTR-1 or GSTR-3B and Others      | Source Document  |
|---------|---------------------|--|---|---|--|
| 5       | Part-V              | Particulars of the transactions for the previous FY declared in returns of April to September of current FY or up to the date of filing of annual return of previous FY whichever is earlier. Usually, the summary of amendment or omission entries belonging to previous FY but reported in Current FY would be segregated and declared here. | 10: Supplies / tax declared through Amendments (+) (net of debit notes)   | Table 9A, 9B, 9C of GSTR-1                                | a. Details related to Dr. /Cr. Note and Amendment pertaining to Previous Year made in GSTR-1 and GSTR-3B filed for the period from April, 18 to Sept., 18. |
|         |                     |  | 11: Supplies / tax reduced through Amendments (-) (net of credit notes)   | Table 9A, 9B, 9C of GSTR-1                                |  |
|         |                     |  | 12: Reversal of ITC availed during previous financial year  | Table 4(A) (5) of GSTR-3B and Purchases Register          |  |
|         |                     |  | 13: ITC availed for the previous financial year   | Table 4(A) (5) of GSTR-3B and Purchases Register          |  |
| 6       | Part-VI             | Other Information comprising details of:   |   |   |  |
|         |                     | (a) GST Demands and refunds,   | 15: Particulars of Demands and Refunds  | -----   | a. RFD-11 and Refund Register if maintained<br>b. Contingent Liability Statement   |
|         |                     | (b) Information on supplies received from composition taxpayers, deemed supply under section 143 and goods sent on approval basis  | 16: Information on supplies received from composition taxpayers, deemed supply under section 143 and goods sent on approval basis | -----   | a. Purchase Register<br>b. Job Work Register<br>c. Goods Outward Register  |
|         |                     | (c) HSN wise summary information of the quantity of goods supplied and received with its corresponding Tax details against each HSN code,  | -----   | Table 12 of GSTR-1 for HSN wise summary of Outward Supply | a. GSTR-1<br>b. Sales Register<br>c. Purchase Register   |

**Note:**

1. Value as per GSTR-3B and GSTR-1 must align
2. Value as per ITC register and GSTR-2A must align and respective comment needs to be incorporated related to mismatch.



## **G. Crucial Area in various table under GSTR-9**

### **i. Difference between amendments details in Table 4 of Part-II and Table 10 or 11 of Part- V**

**Table No 4:** In this table, amendments related to invoices issued during July-17 to March-18 declared in GSTR-1 of July-17 to March-18 are to be provided.

**Table 10 or 11:** In this table, amendments related to invoices issued during July-17 to March-18 declared in GSTR-1 of April-18 to September-18 are to be provided.

### **ii. DN/CN issued to unregistered person**

DN/CN issued to unregistered person is to be adjusted against outward supply or net supply. Therefore such DN/CN is to be furnished in Table 4A.

### **iii. Advance received during Pre-GST**

Only unadjusted advance received during post GST is to be report in Table 4F of Part II.

### **iv. Ineligible ITC as reported in GSTR-3B**

Net ITC as per GSTR-3B does not take into consideration ineligible ITC as reported in Table-4D of GSTR-3B. So auto populated figure of Net ITC in Table-6A of GSTR-9 does not contain ineligible ITC. Since, taxpayer has not availed such ineligible ITC at all, there is no requirement to reverse it.

However, if any registered person has reported such ineligible ITC in Table-4A of GSR-3B or later an identified certain ITC claimed to be ineligible at the time of filing GSTR-9 then such amount needs to be reported in Table-7E of GSTR-9.

### **v. Following transactions are not to be reported in GSTR-9**

- a. Non-GST refund claim as well as Non-GST Demand
- b. Notice received asking for reasons/reconciliation of tax between returns filed.
- c. Goods send to Job worker before July, 17

## **H. Late fees for non-filing of Annual Return**

Section 47 (2) of CGST Act, 2017 provides that late fees for non-filing the GSTR 9 within the due date is Rs. 100 per day per act (i.e. Rs 100 under CGST & Rs. 100 under SGST ) up to a maximum of an amount calculated at a quarter percent of the taxpayer turnover in the state or union territory.

## **I. Penalty:**

There is no specific provision for imposing penalty for non-filing of annual return under the CGST Act, 2017. However Section 125 of the Act provides that any person, who contravenes any of the provision of this Act or any rules made there under for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extended to Twenty Thousand rupees.

## **J. Notice to Return Defaulter**

As per Section 46 of CGST Act, 2017, if a registered person fails to furnish a return under Section 39 or Section 44 or Section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.



# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## INDIRECT TAX

**Notification No. – FIN-CTI-TAX-0045-2017/38535**

**Date – 10/12/2018**

**Odisha State Government**

### **Revised Guidelines relating to Works Contract under GST**

The guidelines regarding Works Contract under GST was issued earlier dt. 07.12.2017. Subsequently, the National Rural Infrastructure Development Agency has issued guidelines for works contract on implementation of GST.

Govt. has issued revised guidelines as follows –

- Works Contract is treated as composite supply under GST & it is taxable @ 18%, 12% and 5% depending upon the nature of Works Contract.
- While preparing estimates for a work after 1.07.2017, the GST exclusive work value is to be arrived as per revised Schedule of Rate-2014 published by Odisha State Govt. & GST will be added at appropriate rate.
- In GST Regime, the works contractor is required to raise Tax Invoice showing Taxable Value & GST (CGST+SGST) portion separately.
- If tender was invited before 1.07.2017 on the basis of Schedule of Rate-2014 published by Odisha State Govt., but payments made for balance work or full work after implementation of GST, the prescribed procedure is to be followed.

For more details, please follow - <file:///C:/Users/TAX-USER1/Downloads/odisha%20works%20contract%20notification.pdf>

## CUSTOMS

### TARIFF

**Notification No.-79/2018**

**Date – 5<sup>th</sup> December 2018**

Amendment to notification no. 52/2003-Customs dated 31.03.2003 -reg.

The Central Government makes amendments in the Notification No. 52/2003-Customs, dated the 31st March, 2003.

#### Amendments –

**(A)** In the opening paragraph,-

- in condition (4), in first proviso, for the words and figures —Central Excise Rules, 2002 the words and figures —the Central Excise Rules, 2017 or as a GST registrant under the Central Goods and Service Tax Act or the State Goods and Service Tax Act or the Union Territory Goods and Service Tax Act, 2017 and rules made there under shall be substituted;
- in condition (6),-
  - in clause (ix), for the words and figures —No. 62/2004-Cus., dated 12-5- 2014 the words and figures —No. 50/2017-Customs dated 30-6-2017 shall be substituted.
  - for clause (xv), the following shall be substituted, namely:- —

- The percentage of wastage shall be calculated with reference to the total quantity of gold or platinum or silver imported or issued for manufacture of the jewellery;
- No wastage shall be allowed for jewellery procured against exchange under provisions of the Foreign Trade Policy.

(B) in paragraph 3, in first proviso, for the words and figures —No.106/58—Customs dated the 29th March, 1958’, the words and figures —No. 36/2017-Customs dated the 30th June 2017 shall be substituted.

For more details, please follow - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-tarr2018/cs79-2018.pdf>

## **NON TARIFF**

**Notification No.-95/2018**

**Date – 6<sup>th</sup> December 2018**

### Revised All Industry Rates of Duty Drawback

The Central Government determines the rates of drawback as specified in the Schedule given below subject to the following notes and conditions, namely:-

#### **Notes and Conditions. –**

- (1) The tariff items and descriptions of goods in the said Schedule are aligned with the tariff items and descriptions of goods in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) at the four-digit level only.  
The descriptions of goods given at the six digit or eight digit in the said Schedule are in several cases not aligned with the descriptions of goods given in the First Schedule to the Customs Tariff Act, 1975.
- (2) The general rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 shall, mutatis mutandis, apply for classifying the export goods listed in the said Schedule.

For more details - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt95-2018.pdf;jsessionid=A0FB10D92F972841228D11EC4D24C377>

**Notification No.-96/2018**

**Date – 6<sup>th</sup> December 2018**

### Exchange Rates Notification No.96/2018-Custom (NT) dated 06.12.2018

The Central Board of Indirect Taxes and Customs determines the rate of exchange of conversion of each of the foreign currencies –

| <i>Foreign Currency</i> | <i>Rate of exchange of one unit of foreign currency equivalent to Indian rupees</i> |                             |
|-------------------------|---|-----------------------------|
|                         | <i>(For Imported Goods)</i>   | <i>(For Exported Goods)</i> |
| Australian Dollar       | 52.35   | 50.10                       |
| Bahraini Dinar          | 194.20  | 182.15                      |

For more details - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt96-2018.pdf;jsessionid=509FEBB3AC2A2C889FFAE38306137509>

**Notification No.-97/2018**

**Date – 7<sup>th</sup> December 2018**

Amendment to Notification no. 62/94-Customs (N.T.) dated 21.11.1994 notifying Port Meadow u/s 7(a) of Customs Act, 1962 for unloading of imported goods and loading of export goods or any class of goods.

CBIC makes the amendments in the Notification No. 62/1994 –Customs (N.T.), dated the 21st November, 1994.

In the said notification in the TABLE, against serial number 1 relating to the Union territory of Andaman and Nicobar Islands, in column (3) and (4), after item (2) in column (3) and the entries relating thereto in column (4), the following item and entries shall be inserted, namely:-

| (1) | (2) | (3)         | (4)  |
|-----|-----|-------------|--|
|     |     | Port Meadow | Unloading of imported goods and the loading of export goods or any class of such goods.” |

**ANTI-DUMPING**

**Notification No.-56/2018**

**Date – 4<sup>th</sup> December 2018**

Seeks to levy definitive anti-dumping duty on the imports of "Uncoated Copier Paper" originating in or exported from Indonesia, Thailand and Singapore.

The Designated Authority in its final findings, vide F. No.6/32/2017-DGAD, dated the 30th October, 2018, has come to the conclusion regarding ‘Uncoated Copier Paper’ falling under heading 4802 of the First Schedule to the Customs Tariff Act, 1975 originating in, or exported from Indonesia, Thailand and Singapore and imported into India, has come to the following conclusion-

- The subjected goods has been exported to India from subjected countries below their normal values
- Consequently, the domestic industry has suffered material injury and that the material injury has been caused by the dumped imports of subjected goods from the subjected countries during the Period of Investigation.

So the Authority has recommended imposition of definitive anti-dumping duty on imports of the subjected goods, originating in, or exported from the subjected country and imported into India to remove injury to the domestic industry for a period of 3 years from the date of issuance of this notification.

Now, therefore, the Central Government, after considering the aforesaid final findings of the designated authority, imposes an anti-dumping duty on the subjected goods.

For more details - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-add2018/csadd56-2018.pdf;jsessionid=OFBF0303981A0B30FA60AA6A2A53A403>

## CIRCULARS

**CIRCULAR No.-48/2018**  
**Date – 3<sup>rd</sup> December 2018**

### Procedure for movement of goods under TIR Carnets-reg

The Customs Convention on International Transport of Goods under Cover of TIR Carnets, 1975 (is an international transit system under the auspices of the United Nations Economic Commission for Europe (UNECE).

The Convention applies to the transport of goods without intermediate reloading, in road vehicles, combinations of vehicles or in containers, across one or more borders, between a Customs office of departure of one Contracting Party and a Customs office of destination of another or of the same Contracting Party, provided that some portion of the journey between the beginning and the end of the TIR transport is made by road.

### The procedure at the Customs office of Departure is as follows

- (i) At the Customs office of departure, the Customs authorities shall check the cargo on the basis of information contained in the TIR Carnet completed by the transport operator. The Customs authorities shall then seal the load compartment, report it in the TIR Carnet, keep one sheet (white voucher) and fill-in the corresponding counterfoil. The TIR Carnet will then be handed back to the transport operator.
- (ii) When crossing the outgoing border of the country, Customs authorities shall check the seals, detach a second sheet (green voucher) from the TIR Carnet and fill-in the corresponding counterfoil.
- (iii) The filled-in counterfoils by Customs provide evidence to the transport operator that the TIR operation in that country has been terminated.
- (iv) The outgoing Customs office (i.e. that at the border) shall send the detached sheet (green voucher) to the office of departure within 7 days of the departure of the goods. The latter shall compare the received sheet with the one it initially retained. If there are no objections and no reservations by the outgoing office, the TIR operation may be discharged by Customs authorities in that country.
- (v) If the sheet, detached by the outgoing office, contains reservations or if it does not reach the Customs office of departure or if Customs authorities have any other reason to question the proper application of the TIR operation, an internal inquiry will be started. The transport operator and the NGA shall be informed that the termination of the TIR operation has been certified with reservations or has not taken place at all or that other reasons have led to doubts about the proper application of the TIR operation and that they are requested to provide explanations. If a satisfactory reply is not received, the Customs authorities shall apply the provisions of the TIR Convention and national legislation to determine the taxes and duties due to Customs.
- (vi) If after sufficient effort, the Customs authorities are unable to collect the duties payable from the carnet holder, the Customs authorities shall claim the amount so payable from the NGA within the timelines stipulated in the Convention

For more details - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2018/Circular-48-2018-Customs.pdf>

**CIRCULAR No.-49/2018**  
**Date – 3<sup>rd</sup> December 2018**

### Procedure for disposal of un-claimed/un-cleared cargo under section 48 of the Customs Act,1962, lying with the custodians –reg.

The feedback relating to disposal of unclaimed/un-cleared cargo at all Customs locations has not been fully satisfactory despite the issuance of many circulars.

Sometime back, Central Vigilance Commission had appointed a committee of Chief Vigilance Officers to examine the reasons of delay in disposing of unclaimed/un-cleared cargo.

The committee has observed inordinate delays, complete breakdown of system, substantial loss to the government revenue etc.

Accordingly, Board has reviewed the procedure with regard to disposal of un-cleared/un-claimed cargo under section 48 of the Customs Act, 1962 in consultation with CONCOR.

However, that procedure shall be applicable to cargo, which are unloaded at a Customs Station after being brought from outside India on or after 01.04.2018 and which fall in the category of 'unclaimed/ un-cleared' in terms of section 48 of the Customs Act, 1962. It would also be applicable to all unclaimed/un-cleared goods brought from outside India before 01.04.2018 (unclaimed/ un-cleared for a period not exceeding one year) in respect of which:

- a) auction process has not started yet; or
- b) list of cargo proposed for auction has been sent to Customs by the custodian but Customs has not yet provided the necessary information.

For more details- <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2018/Circular-49-2018-Customs.pdf;jsessionid=B6DF203F50D57563A055A97E7ED0FF1C>

**CIRCULAR No.-50/2018**  
**Date – 6<sup>th</sup> December 2018**

Clarification with respect to amendments to Customs and Central Excise notifications for EOUs - reg.

EOU/EHTP/STP/BTP schemes are governed by Chapter 6 of Foreign Trade Policy (FTP), duly supported by the relevant Customs and Central Excise notifications.

These notifications have now been amended in order to align them with the present Foreign Trade Policy (FTP), 2015-2020, as amended, as well as to remove redundancies that had crept in over the time on account of changes/supersession of certain other notifications mentioned therein and legal developments such as the introduction of GST and exempting the EOUs from the application of the Customs warehousing provisions.

These amendments have been carried out by Notifications No. 79/2018–Customs and No. 23/2018- Central Excise, both dated 05.12.2018.

Further, the B-17 Bond (General Surety/Security) being submitted by the EOUs has been similarly updated vide Notification No. 1/2018-Central Excise (N.T.), dated 05.12.2018.

For more details - <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2018/Circular-50-2018-Customs.pdf;jsessionid=6A6B0A135A4FCADAFBBF0F3B0F7C02AF>

## **DIRECT TAX**

**Notification No.-06/2018**

**Date – 6<sup>th</sup> December 2018**

### TDS deduction under section 194A of the Income-tax Act, 1961 in case of Senior Citizens -reg.

In case of Senior Citizens, Some Banks/ TDS deductors are making deduction of TDS even the amount of Income not exceeding of Rs. 50,000.

But the above is not according to Income Tax Law since TDS can not be deducted under section 194A in case of Senior Citizens if their income or aggregate of amount of such income credited or paid during any financial year does not exceed of Rs. 50,000.

The Director General of Income-tax (Systems) is the authorized person to specify procedures, formats and standards for the purposes of furnishing and verification of the statements or claim for refund in Form 26B.He is also responsible for the day-to-day administration in relation to furnishing and verification of the statements or claim for refund in Form 26B in the manner so specified.

The Principal Director General of Income-tax (Systems) clarifies that no tax deduction at source under section 194A shall be made in the case of Senior Citizens where the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year does not exceed fifty thousand rupees.

# PRESS RELEASE

## INDIRECT TAX

### Extension of due date for filing FORM GSTR-9, FORM GSTR-9A and FORM GSTR-9C 7<sup>th</sup> December 2018

FORM GSTR-9 and FORM GSTR-9A have been notified vide notification No. 39/2018-Central Tax, dated 04.09.2018 while FORM GSTR-9C has been notified vide notification no. 49/2018-Central Tax, dated 13.09.2018 as part of the CGST Rules.

The competent authority has decided to extend the due date for filing FORM GSTR-9, FORM GSTR-9A and FORM GSTR-9C till 31st March, 2019. The requisite FORMs shall be made available on the GST common portal shortly. Relevant order is being issued.

### Effective Tax Rate on Complex, Building, Flat etc. 8<sup>th</sup> December 2018

It is brought to the notice of buyers of constructed property that there is no GST on sale of complex/ building and ready to move-in flats where sale takes place after issue of completion certificate by the competent authority. GST is applicable on sale of under construction property or ready to move-in flats where completion certificate has not been issued at the time of sale.

Effective rate of tax and credit available to the builders for payment of tax are summarized in the table for pre-GST and GST regime.

| <u>Period</u> | <u>Output Tax Rate</u>   | <u>Input Tax Credit details</u>   |  | <u>Effective Rate of Tax</u>  |
|---------------|--|---|--|---|
| Pre-GST       | Service Tax: 4.5%<br>VAT: 1% to 5%<br>(composition scheme)   | Central Excise on most of the construction materials: 12.5%<br>VAT: 12.5 to 14.5%<br>Entry Tax: Yes                                     | No input tax credit (ITC) of VAT and Central Excise duty paid on inputs was available to the builder for payment of output tax, hence it got embedded in the value of properties. Considering that goods constitute approximately 45% of the value, embedded ITC was approximately 10-12%. | Effective Pre-GST tax incidence: 15- 18%  |
| GST           | <b>Affordable housing segment:</b> 8%,<br><b>Other segment:</b> 12% after 1/3rd abatement of value of land | Major construction materials, capital goods and input services used for construction of flats, houses, etc. attract GST of 18% or more. | ITC available and weighted average of ITC incidence is approximately 8 to10%.  | Effective GST incidence, for affordable segment and for other segment has not increased as compared to pre- GST regime. |

Housing projects in the affordable segment such as Jawaharlal Nehru National Urban Renewal Mission, Rajiv Awas Yojana, Pradhan Mantri Awas Yojana or any other housing scheme of State Government etc., attract GST of 8%. For such projects, after offsetting input tax credit, the builder or developer in most cases will not

be required to pay GST in cash as the builder would have enough ITC in his books of account to pay the output GST.

For projects other than affordable segment, it is expected that the cost of the complex/ buildings/ flats would not have gone up due to implementation of GST. Builders are also required to pass on the benefits of lower tax burden to the buyers of property by way of reduced prices/ installments, where effective tax rate has been down.

## **DIRECT TAX**

### **Direct Tax Collections for F.Y. 2018-19 up to November, 2018 10<sup>th</sup> December 2018**

The provisional figures of Direct Tax collections up to November, 2018 show that gross collections are at Rs. 6.75 lakh crore which is 15.7% higher than the gross collections for the corresponding period of last year.

Refunds amounting to Rs.1.23 lakh crore have been issued during April, 2018 to November, 2018, which is 20.8% higher than refunds issued during the same period in the preceding year. Net collections (after adjusting for refunds) have increased by 14.7% to Rs. 5.51 lakh crore during April - November, 2018. The net Direct Tax collections represent 48% of the total Budget Estimates of Direct Taxes for F.Y. 2018-19 (Rs. 11.50 lakh crore).

So far as the growth rate for Corporate Income Tax (CIT) and Personal Income Tax (PIT) is concerned, the growth rate of gross collections for CIT is 17.7% while that for PIT (including STT) is 18.3%. After adjustment of refunds, the net growth in CIT collections is 18.4% and that in PIT collections is 16.0%. It is pertinent to mention that collections of the corresponding period of F.Y. 2017-18 also included extraordinary collections under the Income Declaration Scheme (IDS), 2016 amounting to Rs.10,833 crore (Third and last instalment of IDS), which do not form part of the current year's collections.



# JUDGEMENTS

## INDIRECT TAX

Club liable to pay GST on Subscriptions, Sponsorship Fees and Sale of Souvenirs: West Bengal AAR

The Association of Inner Wheel Clubs in India vs. West Bengal AAR

Case No. – 23/WBAAR/2018-19  
Date – 26.11.2018

### Fact of the Case

1. The Association of Inner Wheel Clubs in India is the applicant here.
2. It is affiliated to international inner wheel which is one of the largest women's service voluntarily organizations in the world activity in more than 103 countries.
3. The organization is involved in social welfare work for the financially backward class people. It also provides support to the people suffering from natural disaster or in war-torn regions from the accumulates funds through subscriptions, sponsorship fees, the sale of souvenirs etc.
4. Under such situation the applicant approached to AAR seeking clarification on their liability to pay tax under the new GST regime.

### Decision of the Case

1. The AAR explained that the activity undertaken by the Applicant do not conform entirely to the definition of the Charitable Activity under GST Act clause 2(r) of Notification No 12/2017.
  2. Secondly, the applicant has also activities which involve providing space for advertisement, raising sponsorship etc. and such activities are to be treated as business transactions.
  3. Such service may be classified as advertising services & sale of souvenirs is to be treated as supply of goods.
  4. So, despite of involvement of some social welfare activities of the applicant, he is liable to pay GST due to the aforesaid reasons.
- 

Non-fulfillment of Part-B of E-Way Bill not a Minor Omission, Goods can be released by complying Statutory Mandate: Kerala HC

Daily Express vs. The assistant State Tax Officer & Others

Case No. -35665 of 2018  
Date – 29.11.2018

### Fact of the Case

1. Goods Transporter is the applicant in the present case.
2. The vehicle of the petitioner was intercepted by the department officials and thereafter seized the same on the ground that Part B of the accompanied e-way bill has not completed, hence not valid for the movement of goods as per Section 138 of the GST Act and Rules 2017.
3. Before the Court, the petitioners contended that if somebody transports any taxable goods without the cover of documents, at best he can be mulcted with Rs.10,000/- as fine, and nothing more.

### Decision of the Case

1. The Government Pleader, Dr. Thushara James argued that the Court in its past judgments has held that unfilled Part B of the e-way bill cannot be treated as a minor omission.
  2. Accepting the contentions of the department, Justice Dama Seshadri Naidu held that "the petitioner carried an e-way bill, in which Part B remained unfilled.
  3. "If the petitioner wants the interim custody of the goods, it may comply with the statutory mandate under Section 129(1)(b) and get them released.
  4. The Kerala High Court has once again reiterated that the omission to fulfill Part-B of the E-Way Bill cannot be treated as a minor one and in such cases, the goods can only be released after satisfying the statutory conditions.
-

**Punjab & Haryana HC admits Petition against Constitution of AAR and AAAR: Issues Notice**

**Umang Goyal vs. Union of India & Others**

**Case No. – CWP No. 28650 of 2018**

**Date – 29.11.2018**

**Fact of the Case**

1. The petitioners urged the Court to declare the provisions of section 96 & 99 in the GST Acts pertaining to AAR/AAAR constitution as void, defective & unconstitutional, and also prayed for urgent stay of the impugned provisions and notifications in this regard.
2. An advance ruling helps the applicant in planning his activities which are liable for payment of GST in advance.
3. In the opinion of High Court it brings certainty in determining the tax liability, as the ruling given by the Authority for Advance Ruling is binding on the applicant as well as Government authorities.
4. It also helps in avoiding long drawn and expensive litigation at a later date. Seeking an advance ruling is inexpensive and the procedure is simple and expeditious.
5. It thus provides certainty and transparency to a taxpayer with respect to an issue which may potentially cause a dispute with the tax administration.
6. A legally constituted body called Authority for Advance Ruling (AAR) can give a binding ruling to an applicant who is a registered taxable person or is liable to be registered. The advance ruling given by the Authority can be appealed before an Appellate authority for Advance Ruling (AAAR).

**Decision of the Case**

A bench admitted the petition and issued a notice to the Centre-State Governments.

**Maharashtra AAR: Sodium Bicarbonate, Sodium Sulphate, etc. not exempt as ‘animal feed’, but classifiable as Organic & Inorganic chemicals, taxable at 18%**

**M/S. Uttara Impex Private Limited vs. Maharashtra AAR**

**Case No. - GST-ARA-25/2018-19/B-88**

**Date – 14.08.2018**

**Fact of the Case**

1. In the present case the applicant is the importer of Sodium Bicarbonate, Sodium Sulphate, Betaine HCL, Tryptophan, Threonine, Lysine HCL, Sodium Sulphate, Lysine Sulphate and Monocalcium Phosphate etc.
2. Those products are covered under schedule III pursuant to chapter 28 & 29 of the Customs Tariff Act.
3. In the opinion of AAR, those products under the aforesaid chapters related to organic chemicals and not be eligible for exemption under entry 102 of Notification No. 02/2017 Integrated Tax (Rate).
4. Referring to the dictionary meaning of the above terms, concludes that ‘animal feed’ is food given to animal which is essential to the development, sustenance, maintenance etc., on the contrary supplement is added to animal feed in order to improve it or make it complete feed, and ‘additive’ is a food supplement for farm animals that cannot get enough nutrients from regular meals.
5. However, holds that “Di calcium phosphate” of animal feed grade would fall under Sr. No. Entry 105 of Notification No. 02/2017-Integrated Tax (Rate), however, Mono calcium phosphate is not covered by scope of said Notification : Maharashtra AAR .

**Decision of the Case**

1. So the above discussed items are not exempted as “Animal Feed” but classifiable as Organic & Inorganic Chemicals taxable at 18%.

**AAR: Hiring buses to Municipal Corporation for passenger transportation, while retaining effective control, taxable at 18%**

**Fact of the Case**

1. Here Applicant is the service provider of Bus to Nagpur Municipal Corporation (NMC) on rent/hiring basis.
2. NMC used the buses for transportation of passengers also which falls under Serial No. 10 Heading No. 9966, sub clause(ii) of

- Notification No. 11/2017 Central Tax (Rate) as rental service of transport vehicles with operators.
3. As per agreement with NMC, applicant is providing services of running AC Green City Buses for transport of general public for which NMC is paying them service charges on kilometre basis and fare from passengers is collected by NMC.
  4. Applicant is just providing buses to NMC along with drivers, fuels, maintenance etc. on hire/ rent while retaining effective control, and that there is no connection between applicant and passengers.
  5. As per agreement there is a transfer of right to use any goods (buses) for any purpose i.e. for transportation purpose and for a specified period of 15 years for cash, such activity is considered as 'supply of service' as per sub-clause (f) of clause 5 of Schedule II of CGST/ MGST Act, 2017.

4. It is explained that, while security guards provided are working under overall supervision of security guards who are on the establishment of PCMC, they are not mere assistants/helpers because they are fully responsible for security of entire premises and suppose to handle emergency situation and co-ordinate with important organization.

#### **Decision of the Case**

So providing such Security Guard Service to Pimpri Chinchwad Municipal Corporation is exempted from GST.

#### **Decision of the Case**

1. As per Notification No. 12/2017 Central Tax (Rate) stage carriage other than AC carriage attracting nil rate of tax.
2. But the rental service of transport vehicles with operators for running of AC Green City Buses is liable to GST @18%.

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#### **AAR: Providing Assistants/Helpers to Security Guards of Municipal Corporation, exempt**

#### **National Security Services vs. Maharashtra AAR**

**Case No. -58/2018-19/B-132**

**Date – 24.10.2018**

#### **Fact of the Case**

1. Applicant is the provider of Security Guards to Pimpri Chinchwad Municipal Corporation
2. Such security service rendered as being round the clock helper to security service.
3. Revenue's contention is rejected as providing "assistants" to security guards of various properties of PCMC cannot be termed as services in relation to Urban Planning including Town Planning or any activity in relation to any function entrusted to a Municipality under Article 243W of Constitution but can be termed as providing 'manpower services.

## **DIRECT TAX**

### **SC allows Income Tax Department To Reopen Tax Case against Sonia Gandhi, Rahul Gandhi**

#### **Sonia Gandhi vs. Assistant Commissioner of Income Tax & Others**

**Case No. – 28726/2018**

**Date – 04.12.2018**

#### **Fact of the Case**

1. Sonia Gandhi & Rahul Gandhi are the applicant in the present case.
2. Congress president Rahul Gandhi and former president Sonia Gandhi have challenged a Delhi high court order refusing to grant them relief against reopening of their income tax assessments for 2011-12.
3. The three judge bench said that, “it would be open to the Assessing Officer to complete the assessment and pass the assessment order as well. However, till the next date of hearing that would not be given effect”. “
4. It is clear that since the matter is still at the preliminary stage and limitation is expiring, aforesaid course of action is adopted without going into the merits of the case”, the Apex Court also added.

#### **Decision of the Case**

1. On 10 September, a bench of the Delhi high court dismissed a challenge to review the tax assessments of the Gandhis in connection with the National Herald newspaper, saying material facts had been concealed.
2. The court, however, allowed the tax department to carry out the reassessment but said any order passed by it would be subject to the final order of the apex court.
1. The I-T department had already issued a demand notice for ₹249.15 crore to Young India for the assessment year 2011-12.

### **Money Laundering can't be alleged by Mere Producing of Evidence of Share Transactions: ITAT**

#### **Mr. Nirmal Kumar Sarda vs. CPIO, Assisatnt Director of Income Tax & Additional Director of Income Tax**

**Case No. –CIC/DGITJ/A/2018/617828-BJ**

**Date – 26.11.2018**

#### **Fact of the Case**

1. The appellant, Ramprasad Agarwal, a Mumbai resident, who bought shares of Rutron International in 2014 and held them for more than a year before selling them.
2. The assessing officer, while completing the assessment proceedings, had declined to provide long-term capital gains (LTCG) exemption for the transaction and the defendant was asked to pay up Rs 83 lakh tax.

#### **Decision of the Case**

1. The A.O has not brought any material on record to show that the assessee has paid over and above the purchase consideration as claimed and evident from the bank account only.
2. As per the opinion of Tribunal, in absence of any evidence it cannot be said that the assessee has introduced his own unaccounted money by way of long term capital gain.
3. Accordingly, the addition made by the AO on this account was deleted.

# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDAR

| Date               | Return Type  |
|--------------------|--|
| 20th December 2018 | <b>Form GSTR-3B for October 2018</b> - Taxpayers whose principal place of business is in 11 districts of Tamil Nadu*   |
| 20th December 2018 | <b>Form GSTR-1 for October 2018</b> -Taxpayers having aggregate turnover more than Rs. 1.5 crore and whose principal place of business is in the 11 districts of Tamil Nadu* |
| 20th December 2018 | <b>Form GSTR-3B</b> - for November 2018  |
| 20th December 2018 | <b>Form GSTR-5</b> – Summary of Outward Taxable Supplies & Tax payable by the Non-Resident Taxable Person for the month of November 2018                                     |
| 20th December 2018 | <b>Form GSTR-5A</b> – Summary of Outward Taxable Supplies & Tax payable by OIDAR   |
| 31st December 2018 | <b>Form GSTR 1</b> - Newly migrated taxpayers with turnover above Rs. 1.5 Crore in previous F.Y or Current F.Y: for months from July 2017 to November 2018                   |
| 31st December 2018 | Form GSTR-3B <b>-for newly migrated taxpayers</b> for months July 2017 to Nov 2018   |
| 31st December 2018 | <b>Form ITC-04</b> - for the period of July 2017 to September 2018   |
| 31st December 2018 | <b>Form GSTR-10</b> - Taxpayers whose registration has been cancelled by the proper officer on or before September 30, 2018, shall be required to furnish the final return.  |
| 31st December 2018 | <b>Form GSTR-04 (Quarterly)</b> - Statement of goods dispatched or received to/from Job Worker for the quarter July 2018-September 2018                                      |

\***11 Districts of Tamil Nadu** - Cuddalore, Thiruvarur, Pudukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram.

## DIRECT TAX CALENDAR - DECEMBER, 2018

### 07.12.2018

- Due date for deposit of Tax deducted/collected for the month of November, 2018. 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

### 15.12.2018

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2018 has been paid without the production of a challan.
- Third installment of advance tax for the assessment year 2019-20.
- Due date for issue of TDS Certificate for tax deducted under section 194-IA & section 194-IB in the month of October, 2018.

### 30.12.2018

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA & section 194-IB in the month of November, 2018.

# COURSES

| COURSE NAME   | DETAILS   |
|---|---|
| <b>ADVANCED GST COURSE</b>                                  | <ul style="list-style-type: none"><li>✓ Duration 14 Days (30 Hours)</li><li>✓ Eligibility - Tax Professionals, GST Practitioners, Members, CMA Final pursuing Students.</li><li>✓ Online learning</li></ul> |
| <b>DIRECT TAX – COURSE ON RETURN FILLING &amp; FILING</b>   | <ul style="list-style-type: none"><li>✓ Duration 14 Days (30 Hours)</li><li>✓ Eligibility – B.Com, M.com, CMA Pursuing Students, Tax Practitioners and Members.</li><li>✓ Online learning</li></ul>         |
| <b>DIRECT TAX – COURSE ON TDS</b>                           | <ul style="list-style-type: none"><li>✓ Duration 14 Days (30 Hours)</li><li>✓ Eligibility – B.Com, M.com, CMA Pursuing Students, Tax Practitioners and Members.</li><li>✓ Online learning</li></ul>         |
| <b>CRASH COURSE FOR COLLEGE/ UNIVERSITIES ON DT AND IDT</b> | <ul style="list-style-type: none"><li>✓ Duration 7 Days</li><li>✓ Eligibility – UG and PG Students</li><li>✓ Mode of Class – Classroom learning</li></ul>   |

Link for admission - <http://cmaicmai.in/advsc/DelegatesApplicationForm.aspx>

## TAXATION COMMITTEE - PLAN OF ACTION

### Proposed Action Plan:

1. Successful conduct of Certificate Course on GST.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

### Disclaimer:

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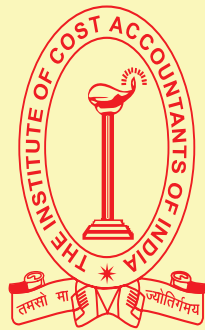
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