

मेवाड़ चेम्बर पत्रिका

(मेवाड़ चेम्बर ऑफ कामर्स एण्ड इण्डस्ट्री का मासिक पत्र)

उदयपुर, चित्तौड़गढ़, डूंगरपुर, बाँसवाड़ा, प्रतापगढ़

राजसमन्द एवं भीलवाड़ा का सम्भागीय चेम्बर

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Diwali*



मेवाड़ चेम्बर ऑफ कामर्स एण्ड इण्डस्ट्री

मेवाड़ चेम्बर भवन, नागौरी गार्डन, भीलवाड़ा (राज.) 311 001 फोन : 01482-220908, 238948

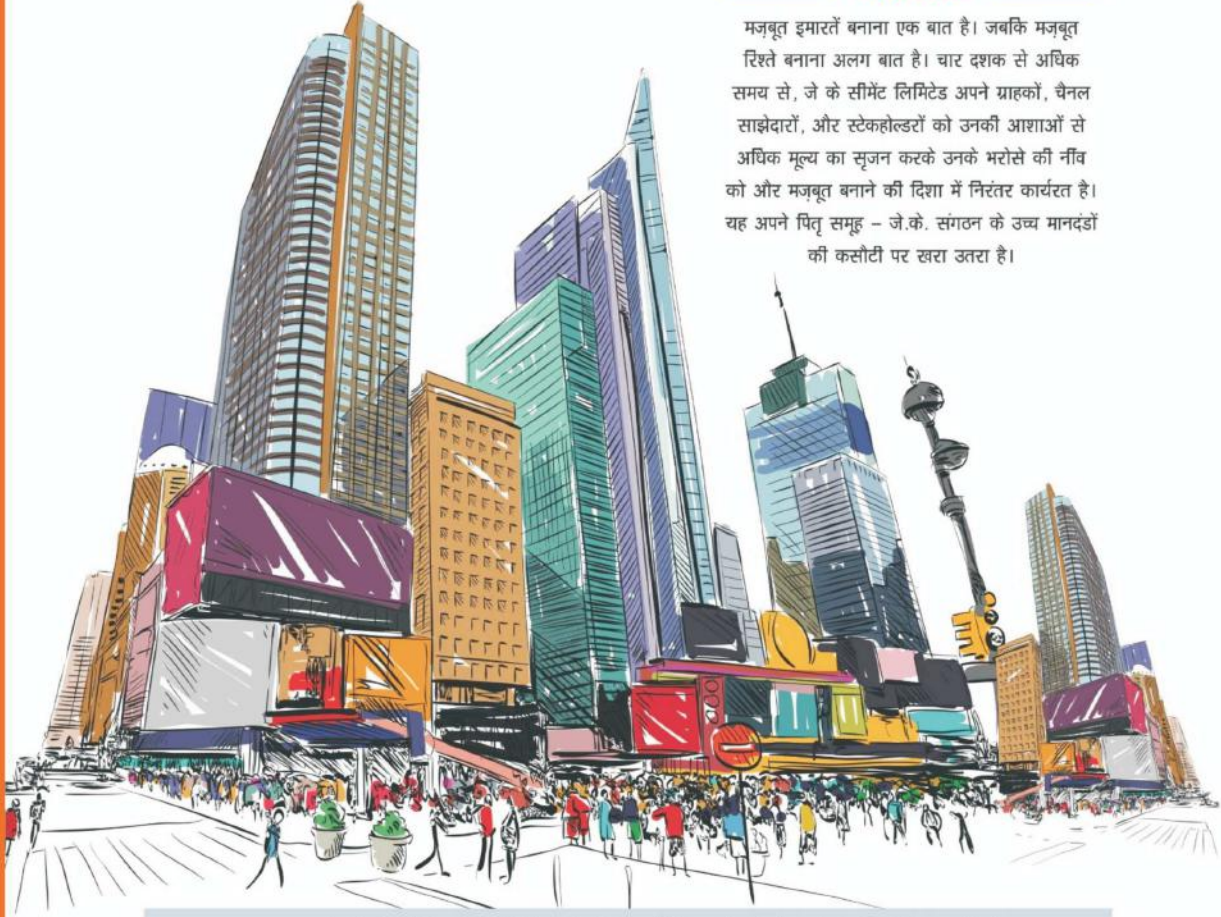
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जे.के. व्हाइट, कटनी | जे.के. सीमेंट वर्क्स (फुजैरा) एफजैडसी

सेंट्रल मार्केटिंग ऑफिस: भारत (व्हाइट सीमेंट और ग्रे सीमेंट): नई दिल्ली | यूएई ऑपरेशन्स: दुबई
कारपोरेट एवं पंजीकृत कार्यालय: जे.के. सीमेंट लि., कमला टावर, कानपुर-208001, उत्तर प्रदेश, भारत

टेली.: 0512 2371478-81 फैक्स: 0512 2399854

वेबसाइट: www.jkcement.com ई-मेल: ho.grey@jkcement.com

हमारे ब्राण्ड्स



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MEWAR CHAMBER OF COMMERCE & INDUSTRY

Mewar Chamber Bhawan, Nagori Garden Bhilwara 311 001 (Raj.) Ph. 01482-220908 Fax : 01482-238948
E-mail : mcci@mccibhilwara.com Website : www.mccibhilwara.com

OFFICE BEARERS

	OFFICE
President Mr. Dinesh Nolakha dinesh@nitinspinners.com	01482-286111
Sr. Vice President Mr. J. K. Bagrodia jkbagrodia1@gmail.com	01482-242435
Vice Presidents Mr. R. P. Dashora rajendra.dashora@vedanta.co.in Mr. Rajesh Kakkar kakkar@birlacorp.com Mr. J.C. Soni jcseni@bslsuitings.com	01483-229011 01472-256601 01482-246801
Hony. Secretary General Mr. R.K. Jain mcci@mccibhilwara.com	01482-220908 238948
Hony. Joint Secretary Mr. K.K. Modi kamal_modtex@yahoo.co.in	01482-247502
Hony. Treasurer Mr. V. K. Mansingka mansingka@yahoo.com	01482-253300
Executive Officer Mr. M.K.Jain mcci@mccibhilwara.com	01482-220908

AFFILIATION

AT THE INTERNATIONAL LEVEL

International Chamber of Commerce, Paris (France)

AT THE NATIONAL LEVEL

Federation of Indian Chamber of Commerce & Industry, (FICCI) New Delhi
Indian Council of Arbitration, New Delhi

National Institute for Entrepreneurship and Small Business Development (NIESBUD), New Delhi.

Confederation of All India Traders, New Delhi

AT THE STATE LEVEL

Rajasthan Chamber of Commerce & Industry, Jaipur.

The Employers Association of Rajasthan, Jaipur.

Rajasthan Textile Mills Association, Jaipur

REPRESENTATION IN NATIONAL & STATE LEVEL COMMITTEES

- All India Power loom Board, Ministry of Textile, Govt. of India, New Delhi
- National Coal Consumer Council, Coal India Ltd., Kolkata
- State Level Tax Advisory Committee, Govt. of Rajasthan, Jaipur
- State Level Industrial Advisory Committee, Govt. of Rajasthan, Jaipur
- Regional Advisory Committee, Central Excise, Jaipur
- Foreign Trade Advisory Committee, Public Grievance, Customs, Jaipur
- DRUCC/ZRUCC of North Western Railways

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श्री दिनेश नौलखा राजस्थान चेम्बर जयपुर के उपाध्यक्ष मनोनीत

राजस्थान के राज्य स्तरीय संगठन राजस्थान चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री जयपुर ने भीलवाडा के मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री के अध्यक्ष दिनेश नौलखा को वर्ष 2018 से 2021 तक 3 वर्ष के लिए राजस्थान चेम्बर का उपाध्यक्ष मनोनीत किया।

राजस्थान के दक्षिण क्षेत्र के 7 जिलों भीलवाडा, चित्तौडगढ़, बांसवाडा, डुंगरपुर, प्रतापगढ़, राजसमन्द, उदयपुर का प्रतिनिधित्व करता है। इन सभी जिलों के टेक्सटाइल सहित अन्य उद्योगों की समस्याओं को प्राथमिकता से राज्य एवं केन्द्र सरकार के समक्ष रखकर उनका निस्तारण करवाने में अहम भूमिका निभाता आ रहा है। हाल ही में लागू हुए जीएसटी, ई-वे बिल सहित जटिल समस्याओं का निराकरण चेम्बर के माध्यम से हुआ है। राजस्थान चेम्बर के मानद महासचिव डॉ के एल जैन ने मेवाड चेम्बर की कार्य कुशलता को देखते हुए श्री दिनेश नौलखा को राजस्थान चेम्बर का उपाध्यक्ष नियुक्त किया।

हिन्दुस्तान जिंक लिमिटेड को पर्यावरण क्षेत्र में प्रथम एवं ओवरऑल में 5वीं रेटिंग

मेवाड चेम्बर की सदस्य इकाई हिन्दुस्तान जिंक लिमिटेड को विश्व प्रसिद्ध संस्था डॉव जोन्स सस्टेनेबिलिटी इंडेक्स में विश्व स्तर पर पांचवां स्थान मिला है। पिछले वर्ष, विश्व स्तर पर 11वां स्थान मिला था। इसके साथ पर्यावरण के क्षेत्र में हिन्दुस्तान जिंक को 86 प्रतिशत स्कोर के साथ प्रथम स्थान घोषित किया गया है।

हिन्दुस्तान जिंक लिमिटेड भारत की एकमात्र एवं विश्व की अग्रणी जस्ता-सीसा एवं चांदी उत्पादक कंपनी है। जो कि रामपुरा आगुचा एवं अन्य खनन क्षेत्रों में तथा चित्तौडगढ़ स्थित धातु संशोधन प्लांट एवं आसपास के क्षेत्रों में पर्यावरण संरक्षण के लिए उत्कृष्ट कार्य करती रही है। साथ ही कम्पनी का अपने क्षेत्रों में शिक्षा, नारी स्वरोजगार, स्वास्थ्य, आंगनवाडी एवं अन्य कार्यों में उल्लेखनीय योगदान करती रही है।

डॉव जोन्स सस्टेनेबिलिटी इंडेक्स द्वारा किये गये मूल्यांकन के आधार पर 58 कंपनियों में न्यूमोन्ट, टेक रिसोर्सेज, रियो टिंटो, बैरिक गोल्ड एवं एंग्लो गोल्ड शामिल है। डॉव जोन्स इंडेक्स विश्व स्तर पर एक प्रसिद्ध संगठन है जो सस्टेनेबिलिटी के आधार पर कंपनियों का मूल्यांकन और बेंचमार्क करती हैं। हिन्दुस्तान जिंक का सामाजिक क्षेत्र में स्कोर 57 से 63 रहा तथा आर्थिक क्षेत्र में स्कोर 61 से 70 का सुधार हुआ है जो वैश्विक स्तर पर 7वीं एवं 12वीं रैंक है। हिन्दुस्तान जिंक का आर्थिक एवं सामाजिक वर्ग में और अधिक सुधार के लिए उत्कृष्ट प्रयास करती रही है। कंपनियों का मूल्यांकन एवं बेंचमार्किंग आर्थिक, पर्यावरण और सामाजिक तीन आयामों के आधार पर किया जाता है। हिन्दुस्तान जिंक के मुख्य कार्यकारी अधिकारी श्री सुनील दुग्गल ने बताया कि हिन्दुस्तान जिंक सस्टेनेबिलिटी के प्रति सदैव कटिबद्ध रही है। कंपनी ने अपने आपरेशन्स में उत्कृष्ट वैश्विक पर्यावरण अनुकूल टेक्नोलॉजी को एकीकृत किया है। डॉव जोन्स सस्टेनेबिलिटी इंडेक्स में मान्यता प्राप्त रैंकिंग से हमें बेहद खुशी है जो पर्यावरण को "जीरो हार्म" के प्रति हमारी प्रतिबद्धता को दर्शाता है। हिन्दुस्तान जिंक ने 60 एम.एल.डी प्रतिदिन क्षमता के दूषित जल को उपचारित करने के लिए उदयपुर में पहला सीवेज ट्रीटमेंट प्लांट स्थापित किया है जिससे 100 प्रतिशत घरेलू मल का उपचार होगा। हिन्दुस्तान जिंक द्वारा स्थापित प्राइवेट-पब्लिक पार्टनरशीप के तहत यह पहला सीवेज ट्रीटमेंट प्लांट है। बेंचमार्क के रूप में हिन्दुस्तान जिंक का उदयपुर में स्थित प्रधान कार्यालय-यशद भवन को सीआईआई-आईजीबीसी द्वारा राजस्थान की पहली प्लैटिनम रेटेड ग्रीन बिल्डिंग के रूप में मान्यता प्रदान की जा चुकी है। हिन्दुस्तान जिंक के वाइस प्रेसीडेंट एवं हेड-कार्पोरेट कम्प्यूनिकेशन श्री पवन कौशिक के अनुसार यह हिन्दुस्तान जिंक द्वारा सस्टेनेबल एवं सामाजिक उत्तरदायित्व के लिए किये गये प्रयासों की मान्यता है तथा हिन्दुस्तान जिंक आगामी 5 वर्षों में खनन कंपनियों की शीर्ष 5 कंपनियों में अग्रसर बनने की ओर प्रयासरत हैं।

जिला उद्योग केन्द्र भीलवाडा

माननीय न्यायालय एनजीटी नई दिल्ली द्वारा पारित निर्णय आवेदन क. 128/2017 (एम ए 1103/2017) देवी दास खत्री बनाम राजस्थान राज्य एवं अन्य की अनुपालना बाबत।

नेशनल ग्रीन ट्रिब्यूनल प्रधान बेंच नई दिल्ली द्वारा पारित निर्णय दिनांक 12 जुलाई 2018 को ऐसे संगठन/इकाईयां जो पानी के पैकेजिंग/विक्रय या aerated beverage या भूजल की वाणिज्यिक सप्लाई के कार्य में संलिप्त हो तथा जल दोहन से संबंधित प्रचलित नियमों का उल्लंघन करते हुए सक्षम प्राधिकारी की स्वीकृत/अनुज्ञा के बगैर भू-जल का दोहन कर रहे हैं, को प्रतिबंधित किया गया है।

ट्रिब्यूनल द्वारा पारित निर्णय की अनुपालना जिला मजिस्ट्रेट भीलवाडा द्वारा सभी सम्बन्धित संघों एवं इकाईयों से नोटिस प्राप्ति के एक सप्ताह में चाही गई है। ट्रिब्यूनल के निर्णय का उल्लंघन करने वाली सभी इकाईयों जिसके पास सक्षम स्वीकृति नहीं है, के विरुद्ध कानूनी कार्यवाही अमल में लाई जायेगी। अतः केन्द्रीय भू-जल प्राधिकरण से बिना सक्षम स्वीकृति के कोई भी इकाई औद्योगिक/वाणिज्यिक उद्देश्य से भू-जल दोहन नहीं करे। इसकी तुरन्त पालना की जावे।

REPRESENTATION

MCCI/GST/2018-2019/316

Dated: 03.10.2018

Shri Rahil Gupta
Technical Officer (TRU)
Department of Revenue
Ministry of Finance,
Government of India,
New Delhi
Email rahil.gupta@gov.in

Sub : To extend the due date of filing of ITC-04

Respected Sir,

Mewar Chamber of Commerce & Industry is the **Divisional Chamber** of Southern Rajasthan representing the entire major industrial units of Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Rajasmand & Udaipur.

On behalf of our all members of Mewar Chamber of Commerce and Industry, we convey **our heartiest gratitude** to your honour for re-solving various issues of textile industry such as modification of ITC-04 form, extension of date for filing of ITC-04 form, waiver of requirement for submission of Xerox Copies of invoices while submission of refund claims etc. We convey our heartiest gratitude for such relief to entire industry.

Please refer our previous representation dated 22.09.2018 in which we had requested to extend the date for filing the ITC-04 form. We further submit that the last date for submission of ITC-04 was extended up to 30.09.2018 in revised format vide Notification No. 39/2018 Central Tax dated 04.09.2018. We would like to submit to your honour that till date "Revised Format" of ITC-04 is not updated in GSTIN.

In view of the above it is requested to please extend the date for filing of ITC-04 for a further period of 60 days from the date on which it is updated on GSTIN.

We are sure that your good office would consider our humble request sympathetically and would extend suitable relief to the benefit of trade and industry.

We look forward to your kind support and cooperation,

With Best Regards

(CS R.K.Jain)
Hon'y Secretary General



MCCI/GST/2018-2019/321

Dated: 03.10.2018

Shri Rajpal Singh ji Shekhawat
Hon'ble Minister for Industries
Government of Rajasthan,
Jaipur

Sub: Request for waiver of e-way in case of intra state movement of all type of textile goods and articles and job work from whole of the state of Rajasthan

Respected Sir,

Mewar Chamber of Commerce & Industry is the **Divisional Chamber** of Southern Rajasthan representing the **entire major industrial units** of **Bhilwara, Banswara, Chittorgarh, Dungarpur, Pratapgarh, Rajasmand & Udaipur**. We are indeed very thankful to the Hon'ble Chief Minister of Rajasthan and your good self for granting the exemption from requirement of e-way bills in case of job work within the area of 50 KM.

Please refer our previous representations in which we had requested your honour to exempt the issuance of E-way in case of yarn, textile fabrics and articles of textiles and other commodities for intra state movement. Bhilwara is the largest **manufacturing hub of textile fabrics in the country**, producing and processing about 100 crore meters of textile fabrics Per Year.

We would like to submit that inspite of granting exemption from issuance of e-way bills in case of movement of goods for job work within the area of 50 KM, the industries are facing many difficulties as the goods for job work move within the entire state. There is frequent movement of textile goods for job work and supply within the city and state i.e. Kishangarh, Pali, Balotara, Banswara, Dungerpur and other district of Rajasthan for weaving and processing of textile goods. The limit of 50 KM provided in exemption notification for movement of goods for job work will provide only small relaxation. Hence, on behalf of the industry, we **request for waiver of e-way in case of intra state movement of all type of textile goods and articles and job work from whole of the state of Rajasthan.**

Government of Rajasthan has made it mandatory to issue E-Way bill for the movement of all types of goods **including job work of textiles and movement of goods for all commodity**, even in intra city/intra district and intra State w.e.f. 20.05.2018. We wish to submit your honour that the traders/Job workers are very small dealers and there are more than 4000 textile traders in Udaipur Division. It is very difficult for all the Principal Manufacturer, Job-Worker, Registered Person and Principal to issue E-way for **each movement of textile job work**, each supply of goods and consignment for yarn, fabrics and other articles of textiles and other commodity or material for supply of goods within the city, district and within the state i.e. in Rajasthan.

In this connection, we would like submit your honour that the Government of **Gujarat** has issued the **Exemption Notification** No. GSL/GST/RULE-138(14)/B-12 dated 11.04.2018 **to exempt all the items for issuance of e-way** for movement of goods within the city and also **exempted all goods** (including textile fabrics) except 19 items **from issuance of E-way bill within the State of Gujarat**. Similarly, the Government of **Madhya Pradesh** has also issued the Notification No. FA3-08/2018/1/V(43) dated 24.04.2018 to exempt all the items from issuance of E-way bill for **intra district movements** and have also exempted all the items except 11 items in case of **intra state movement** for issuance of E-way bills including yarn and textile fabrics. Government of **Tamilnadu** has also issued Notification No. 09/2018 dated 31.05.2018 and exempted entire job work and services relating to yarn, fabrics and garments. Similarly, Government of Maharashtra has also issued Notification No. 15E/2018 dated 29.06.2018 to exempt Hank, Yarn and Garments from issuance of e-way bill **irrespective of their value** and also increased value of Rs. 1,00,000/- from Rs. 50,000/- within the area of 50 KM. Further, the Government of West Bengal has also issued Notification No. **Notification No. 13/2018-C.T./GST dated 06.06.2018** and Notification No. 14/2018 dated 12.07.2018 to exempt entire job work from issuance of E-way bill irrespective of their value. Further, the Government of Bihar has also a similar Notification on 19.04.2018.

We are enclosing herewith a copy of the **Notification** No. GSL/GST/RULE-138(14)/B-12 dated 11.04.2018 issued by the **Government of Gujarat**, Notification No. FA3-08/2018/1/V(43) dated 24.04.2018 issued by the Government of **Madhya Pradesh**, Notification No. 09/2018 dated 31.05.2018 issued by Government of **Tamilnadu** and Notification No. 15E/2018 dated 29.06.2018 issued by Government of **Maharashtra**, Notification No. **Notification No. 13/2018-C.T./GST dated 06.06.2018** and Notification No. 14/2018 dated 12.07.2018 issued by Government of West Bengal and Notification dated 19.04.2018 issued by Government of Bihar for your kind perusal and needful action.

We are attaching herewith a summary chart showing that all the textile manufacturing states granted the much exemption in comparison of Rajasthan :-

State	Basis of Exemption	Value
Gujarat	Government of Gujarat has issued Exemption Notification No. GSL/GST/RULE-138(14)/B-12 dated 11.04.2018 to exempt all the items for issuance of e-way for movement of goods within the city and also exempted all goods (including textile fabrics) except 19 items from issuance of E-way bill within the State of Gujarat .	Textile yarn is exempted from movement within the city and textile fabrics is exempted from movement of whole state
Madhya Pradesh	Government of Madhya Pradesh issued Exemption Notification No. FA3-08/2018/1/V(43) dated 24.04.2018 to exempt all the items from issuance of E-way bill for intra district movements and have also exempted all the items except 11 items in case of intra state movement for issuance of E-way bills including yarn and textile fabrics	Textile yarn and fabrics exempted from movement of whole the state
Tamilnadu	Government of Tamilnadu issued Notification No. 09/2018 dated 31.05.2018 and exempted entire job work and services relating to yarn, fabrics and garments from whole of state	Exempted entire job work and services relating to yarn, fabrics and garments from whole of state.

State	Basis of Exemption	Value
Maharashtra	Government of Maharashtra issued Notification No. 15E/2018 dated 29.06.2018 to exempt Hank, Yarn and Garments from issuance of e-way bill irrespective of their value and also increased value of Rs. 1,00,000/- from Rs.50,000/- within the area of 50 KM	Hank, Yarn and Garments exempted from issuance of e-way bill from whole of the state & in case of other commodities increased value of Rs. 1,00,000/- from Rs.50,000/- within the area of 50 KM
West Bengal	Government of West Bengal issued Notification No. Notification No. 13/2018-C.T./GST dated 06.06.2018 and Notification No. 14/2018 dated 12.07.2018 to exempt entire job work from issuance of E-way bill irrespective of their value.	Entire goods sent for job work exempted from issuance of E-way bill, within State
Bihar	The Government of Bihar issued Notification No. S.O. 180 dated 19th April 2018.	The e-way bill in respect of movement of goods originating and terminating in the State of Bihar shall not be required to be generated up to value of Rs 2.00 lacs.

All the textile Manufacturing state like, Gujarat, Madhya Pradesh, Maharashtra, Tamilnadu, West Bengal have issued the exemption Notification for intra-state movement for entire job work of textile and textile products and also to exempt of intra state movement of yarn, fabrics and garments and other commodities. Rajasthan State being the pioneer state in manufacturing of textile fabrics and yarn should also exempt intra-state movement for entire job work of textile and textile products, yarn, fabric & garments and other commodities. We look forward for a kind consideration and favourable positive action in the matter for the relief of entire textile industry in the state.

Trade and industry is trying to cope up with the various procedure laid down in the GST law and imposing complicated procedures at one instance would hamper the smooth functioning of the trade. We are sure that in view of the difficulties faced by the entire trade and industry as stated above and also keeping in view the objective of the government to provide maximum ease of doing business, the State Government of Rajasthan should also issue the similar Notification to exempt requirement of issuance of intra state E-way bill.

We request your honour to issue the required Notification to exempt from issuance of E-way bill **for intra state** movement of **all type of** supply of yarn, fabric and articles of textiles and other goods and all other commodities and also for job work.

We look forward to your kind support and cooperation,

With Best Regards,

(CS R.K.Jain)

Hon'y Secretary General



MCCI/GST/2018-2019/325

Dated: 03.10.2018

Shri Rahil Gupta
Technical Officer (TRU)
Department of Revenue
Ministry of Finance,
Government of India,
New Delhi
Email rahil.gupta@gov.in

Sub : To clarify some ambiguity in Notification no. 20/2018-Central Tax (Rate) dated 26.07.2018 and circular no. 56/30/2018-GST dated 24.08.2018.

Respected Sir,

Mewar Chamber of Commerce & Industry is the Divisional Chamber of Southern Rajasthan representing the entire major industrial units of Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Rajasmand & Udaipur.

The Government has amended the Notification 05/2017 Central Tax (Rate) dated 28.06.2017 vide notification 20/2018-Central Tax (Rate) dated 26.07.2018, and by the supra mentioned notification allowed the textile industry to claim refund of the input tax credit accumulated on account of inverted duty structure. Further certain doubts were raised by the textile industry, which were clarified vide circular no. 56/30/2018-GST dated 24.08.2018.

We have received various query from our members about ambiguity of various issues of Notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 and clarification 56/30/2018-GST dated 24.08.2018. It is requested to please issue suitable clarification in following issues:-

1. ***Whether the ITC liable to be reversed is to be calculated on the consolidated basis or head wise i.e. IGST/CGST/SGST***

Circular No. 56/30/2018-GST provides an example at point no. 10, which is reproduced below for ready perusal,

(2) A manufacture who produces, say, grey manmade fibre fabrics and cotton fabrics, had a turnover of Rs 5 crore and 2 crore respectively for manmade fabrics and cotton fabrics for the months from July, 2017 to July 2018[or for the relevant period for fabrics on which refund was blocked subsequently by inserting entries in notification No. 5/2017-Central Tax (Rate)]. Tax payable thereon is Rs 25 lakh on MMF fabrics and Rs 10 lakh on cotton fabrics. MMF fabric has inverted duty structure while cotton fabric does not have inverted duty structure. Assuming the net ITC availed on inputs, during this period, was Rs 35 lakh, ie,
= {(Turnover of inverted rated supply of goods= Adjusted Total Turnover) x Net ITC}– tax payable on such inverted rated supply of goods

The accumulated ITC on account of inverted duty structure shall be equal to nil (5/7*35-25). Thus no amount shall lapse. However, assuming that in this case the ITC availed on input is Rs 42 lakh, the accumulated ITC on accounted on inverted duty structure is Rs 5 lakh (5/7*42-25).

As per the above circular, GST is required to be lapsed/reversed on the calculation of consolidated **amount basis** i.e. on the combination of IGST+CGST+SGST. Further, in the said clarification at point No. 10, it was clearly mentioned that “*It is clarified that for determination of such amount, the formula as prescribed in Rule 89(5) of CGST, Rule shall mutatis mutandis apply as it applies for determination of refundable amount for inverted duty structure. Such amount shall be determined for the months from July, 2017 to July, 2018.*”

As per above procedure, the refund is calculated on consolidated basis and then refund amount allowed as per available balance in electronic credit ledger. We want to clarify whether the procedure adopted by our members for calculation of reversal of accumulated unutilized ITC as required under rule 89(5) for the period July, 2017 to July, 2018 on consolidated basis (Combination of IGST+CGST+SGST) is correct or not !

Further, while reversal of accumulated unutilized ITC in GST-3B, the amount which required to be lapsed head wise in order to reverse the same in the GSTR 3B. Now the issue is that certain entities may have balance in Electronic Credit Ledger as on 31.07.2018 in a particular head only (say in only SGST) and may not have balance in any other heads. So, whether in that case the entire amount has to be reversed from that particular head (say SGST) or to be reversed in a head having positive balance.

We have received various mails from our members mentioning various situations for reversal or lapse of accumulated ITC. It is requested to please clarify the correct situation and procedure to be followed for calculation and reversal of lapse amount. We are attaching herewith statement of calculation of reversal of ITC in various situation is enclosed as Annexure-A

2. What procedure to be followed for lapsing the unutilized accumulated ITC.

In the circular No. 56/30/2018-GST dated 24.08.2018, it has been provided that the registered persons have to reverse the accumulated ITC, on the supplies made between the period from 01.07.2017 to 31.07.2018, on which refund was not allowed inspite of inverted duty structure, and the said accumulated ITC is liable to be lapsed under 4B (2) of GSTR-3B. The relevant part of the circular is reproduced below,

14. The procedure to be followed for lapsing of accumulated input tax credit: *A taxable person, whose input tax credit is liable to be lapsed in terms of said notification, shall calculate the amount of such accumulated ITC, in the manner as clarified above. This amount shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018. The amount shall be furnished in column 4B (2) of the return [ITC amount to be reversed for any reason (others)]. Verification of accumulated ITC amount so lapsed may be done at the time of filing of first refund (on account of inverted duty structure on fabrics) by such person. Therefore, a detailed calculation sheet in respect of accumulated ITC lapsed shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.*

Before reversal of unutilized accumulated ITC as required under Notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 **and clarification No. 56/30/2018-GST dated 24.08.2018**, we have to avail credit of ITC for the month of August,

2018. After availing credit of ITC, we have to reverse accumulated ITC for above referred period in column No. 4B as required under Notification. No. 20/2018-Central Tax (Rate) dated 26.07.2018 **and clarification No. 56/30/2018-GST** dated 24.08.2018. The system will adjust the above reversal of accumulated ITC from the ITC availed for the month of August, 2018. In this process, our Net available ITC for the month of August, 2018 becomes lesser than the ITC availed for the August, 2018 period and in some cases it becomes negative and in such cases assessee will not be in position to claim the refund of ITC on exports under LUT without payment of IGST for the month of August, 2018 since the refund amount is auto populated which cannot be increased and it is based on the Net ITC available for the month of August, 2018 after reversal of accumulated ITC for the period from 01.07.2017 to 31.07.2018.

Further in case of refund of inverted duty structure of ITC accumulated on the domestic supplies, the registered persons would also not be able to claim the refund of the ITC accumulated on account of inverted duty structure, as the ITC availed during the month of August, 2018 would be reduced by the ITC that is required to be lapsed as per the circular ibid, in the GSTR 3B of the August, 2018 and in such cases the registered person would not be able to claim the refund.

Further the intention of the Government was also to lapse the ITC accumulated and remaining unutilized on the goods sold till July, 2018 and that has to be reversed from the ITC accumulated till July, 2018 and not from the ITC availed during the period of August, 2018. Therefore, suitable clarification is required in this regard.

3. What will happen if not reversed the accumulated ITC in GST-3B for the month of August, 2018

Some of our members have filed their GST-3B return for the month of August, 2018 without lapsing/reversal of accumulated unutilized ITC as required under rule 89(5). In such situation whether they can reverse the accumulated ITC in the GST-3B for the month of September, 2018 and onwards or not. Whether they can file their inverted duty refund after reversal of unutilized ITC as per rule 89(5) from August, 2018. Please clarify the same.

4. Whether reversal or lapse is mandatory or an optional

Please also clarify whether this reversal as required under rule 89(5) is mandatory for all person dealing in textile fabrics. Some members are dealing in textile items which under both inverted and non-inverted duty structure and they are not interested to claim any refund at this point of time. Whether they are required to revert the accumulated ITC related to inverted duty structure. Further, in case later on it is decided to claim refund of ITC on inverted duty structure, whether they can revert the accumulated ITC at that time. Since in the circular it has been specifically mentioned that the accumulated ITC is to be reverted in GST- 3B for the month of August, 2018. Please clarify whether reversal of accumulated ITC is mandatory or optional in such cases.

We are sure that your good office would consider our humble request sympathetically and would extend suitable relief for the benefit of trade and industry.

We look forward to your kind support and cooperation,

With Best Regards

(CS R.K.Jain)

Hon'y Secretary General



MCCI/18/2018-2019/351

Dated: 25.10.2018

Ramky Grandiose – 12th & 13th Floors,
Ramky Towers Complex,
Gachibowli, Hyderabad-500 032.
Telangana, India.
Phone No. 040-2301 5000 (60 - Lines)
E-mail: waste@ramky.com

Sub : Development of solid industrial waste disposal facility in Bhilwara.

Dear Sir,

Mewar Chamber of Commerce & Industry is the **Divisional Chamber** of Southern Rajasthan representing the entire major industrial units of Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Rajasmand & Udaipur.

Bhilwara is the major centre of textile industry in Rajasthan, with 18 spinning mills, 19 process houses and hundreds of textile weaving units, mainly producing polyester / viscose blended yarn and Suitings. The process houses at Bhilwara are engaged in processing blended fabrics and all have modern ETPs for treatment of process water. In ETPs, solid waste is generated which is

taken out, dried and is to be disposed off. About 50-80 MT solid waste is generated monthly in each process house. Previously, such solid waste was sent to Gujrat/Udaipur land fill facilities for disposal.

Now, the District Administration desires to develop solid waste disposal facility in Bhilwara District itself. We shall appreciate if you can provide us provisional details about requirement of land and approx. project cost for such a project at Bhilwara for initial discussions at the District Administration level.

We shall be highly obliged for your kind cooperation in the matter.

Thanking You

(CS R.K.Jain)
Hon'y Secretary General



MCCI/60/2018-2019/352

Dated: 30.10.2018

The Secretary
Ministry of Power
Govt. of India,
Shram Shakti Bhawan, Rafi Marg,
New Delhi.

Sub. : Note on draft amendments on Electricity Act- 2003

Respected Sir,

Mewar Chamber of Commerce & Industry, establish in 1966, is the **Divisional Chamber** of Southern Rajasthan representing the entire major industrial units of Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Rajasmand & Udaipur. We represent all the major textile industry, cement, tyre and other large and MSME units of the region.

The Ministry of Power has circulated on 7/9/2018 the revised draft for amendments in Electricity Act 2003. Section 42(6) of the proposed amendments is reproduced as under regarding open access;

"The State Commission shall facilitate open access subject to such conditions, as may be specified by it: Provided that such open access shall be allowed on payment of wheeling charges and a surcharge thereon as may be determined by the State Commission; provided **that the surcharge shall not be more than twenty percent of the wheeling charges. Provided also that such surcharge shall be progressively reduced and eliminated in two years in the manner as may be specified by the State Commission.**

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee: Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use."

In this connection we have to submit that the presently the State Govt has levied surcharge on open access in the name of Additional Surcharge and Cross Subsidy Surcharge. Since the intention of Govt is to promote Open access and reduce Surcharge on same, it should be All type of Surcharge by whatever name called. Therefore the wording in proposed para may be amended to read as under;-

Provided that the surcharge (including Cross Subsidy surcharge , additional surcharge or any other surcharge) shall not be more than twenty percent of the wheeling charges. Provided also that such surcharges shall be progressively reduced and eliminated in two years in the manner as may be specified by the State Commission.

It is therefore requested to consider the suggestion and incorporate in the final act.

With Best Regards.

(CS R.K.Jain)
Hon'y Secretary General

Shri Alok Gupta Ji,
The Commissioner,
Commercial taxes,
Government of Rajasthan,
Jaipur

Sub. : 'C' Form under Central Sales Tax Act-1956

Respected Sir,

Mewar Chamber of Commerce & Industry, establish in 1966, is the **Divisional Chamber** of Southern Rajasthan representing the entire major industrial units of Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Rajasmand & Udaipur. We represent all the major textile industry, cement, tyre and other large and MSME units of the region.

We wish to submit that in support of Inter-State Sale at concessional rate of tax, buyers require to issue 'C' form under Central Sales Tax Act, 1956 to sellers of other states.

Sometimes due to transit time goods reaches to buyer in the next quarter / financial year and buyer account for the purchases in the quarter / year in which they receives the goods.

In this situation there is a time lag between the raising of the sale invoice / consignment note by the vendor of Rajasthan and the receipt of the goods by the purchaser in other state. Normally, the dealers enter the purchase invoices in their registers as per the invoice date but some buyer dealers enter such invoice in their purchase register on the basis of the date of the receipt of the goods or the date of inspection of goods etc. In this situation, for a given transaction the date of the sales invoice and the date of purchase recorded in the purchase register are different.

Now a day's 'C' forms under CST Act, 1956 are required to apply online and it is linked with the purchases during the quarter /year. In online application, system does not accept date which is falling outside the quarter. To resolve this technical problem, in 'C' form buyer generally mention date of receipt in place of date of invoice because if date of invoice is mentioned, online system rejects the entry and 'C' form is not issued. Furthermore, applying 'C' forms without accounting of purchases is also against Accounting Principles.

Looking to the practical / technical difficulties in the online system, we request you to issue necessary clarification / instructions for Assessing Authorities **to accept the 'C' forms even date of receipt mentioned by the buyer in the 'C' forms.** 'C' forms are confirmation of purchases by the buyer. It is needless to mention that Assessing Authority can verify the transaction from copies of Sale Invoices. **This will help in settle down the disputed matters related to period before implementation of GST and work of Government department will also reduce.**

“Once assessing authority is satisfied that all goods sold has been accounted for in other state and it is inter- state sale, he can accept 'C' Form for the quarter either based on sale date or based on receipt date of goods in other state or combination of both” looking to the practical and technical difficulties.

In this connection, Circulars issued by Commissioner, Commercial Taxes, Andhra Pradesh and Commissioner, Sales Tax, Maharashtra are enclosed herewith for your kind reference.

We shall be highly obliged for your kind cooperation in the matter.

Thanking You

(CS R.K.Jain)
Hon'y Secretary General

CIRCULARS

Circular No. 68/42/2018-GST

F. No. 354/360/2018-TRU
Government of India
Ministry of Finance, Department of Revenue
Tax research Unit

Room No. 146G, North Block, New Delhi, 5th October 2018

To,

The Principal Chief Commissioners / Chief Commissioners /Principal Commissioners / Commissioner of Central Tax (All) /The Principal Director Generals/ Director Generals (All) Madam/Sir,

Subject: Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017

Representations have been received by the Board regarding the entitlement of UN and specified international organizations, foreign diplomatic mission or consular posts, diplomatic agents and consular offices post therein to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them.

2. The issue has been examined. Section 55 of the Central Goods and Services Tax Act, 2017(hereinafter referred to as 'CGST Act') provides that the Government may, on the recommendation of the council, specify UN agencies and organizations notified under the UNPI Act 1947, Consulates, Embassies of foreign countries and any other person to be entitled to claim refund of the taxes paid on the notified supplies of goods and services, subject to such conditions and restrictions as may be prescribed. Notification No. 16/2017- Central Tax(Rate) dated 28.06.2017 has been issued specifying UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein for the purposes of the said section.
3. Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017(hereinafter referred to as 'the Compensation Cess Act'), provides that provisions of CGST Act and IGST Act apply in relation to levy and collection of Compensation Cess. Further, section 9(2) of the Compensation Cess Act provides that for all the purposes of claiming refunds, except the form to be filed, the provisions of the CGST Act and the rules made thereunder, shall apply in relation to the levy and collection of Compensation Cess. Therefore, notifications issued under the CGST Act except those prescribing rate or granting exemptions, are applicable for the purpose of the Compensation Cess Act.
4. Accordingly, notification No. 16/2017-Central Tax(Rate) dated 28.06.2017 shall be applicable for the purposes of refund of Compensation Cess to UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein.
5. In view of the above, it is clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.
6. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

Harsh Singh

Technical Officer (TRU)

Email: harshsingh.irs@gov.in

F. No. CBEC/20/16/04/2017-GST
Government of India
Ministry of Finance, Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 2018

To,
 The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All)
 The Principal Directors General/Directors General (All)
 Madam/Sir,

Subject : Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16 - Reg.

The Board is in receipt of representations seeking clarifications on various issues in relation to processing of the applications for cancellation of registration filed by taxpayers in **FORM GST REG-16**. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), hereby clarifies the issues as detailed hereunder:

2. Section 29 of the CGST Act, read with rule 20 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Rules”) provides that a taxpayer can apply for cancellation of registration in **FORM GST REG-16** in the following circumstances:
 - a. Discontinuance of business or closure of business;
 - b. Transfer of business on account of amalgamation, merger, de-merger, sale, lease or otherwise;
 - c. Change in constitution of business leading to change in PAN;
 - d. Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST;
 - e. Death of sole proprietor;
 - f. Any other reason (*to be specified in the application*).
3. Rule 20 of the CGST Rules provides that the taxpayer applying for cancellation of registration shall submit the application in **FORM GST REG-16** on the common portal within a period of 30 days of the „*occurrence of the event warranting the cancellation*“. It might be difficult in some cases to exactly identify or pinpoint the day on which such an event occurs. For instance, a business may be transferred/disposed over a period of time in a piece meal fashion. In such cases, the 30-day deadline may be liberally interpreted and the taxpayers’ application for cancellation of registration may not be rejected because of the possible violation of the deadline.
4. While initiating the application for cancellation of registration in **FORM GST REG- 16**, the Common portal captures the following information which has to be mandatorily filled in by the applicant:
 - a) Address for future correspondence with mobile number and email address;
 - b) Reason for cancellation;
 - c) Date from which cancellation is sought;
 - d) Details of the value and the input tax/tax payable on the stock of inputs, inputs contained in semi-finished goods, inputs contained in finished goods, stock of capital goods/plant and machinery;
 - e) In case of transfer, merger of business, etc., particulars of registration of the entity in which the existing unit has been merged, amalgamated, or transferred (including the copy of the order of the High Court / transfer deed);
 - f) Details of the last return filed by the taxpayer along with the ARN of such return filed.

On successful submission of the cancellation application, the same appears on the dashboard of the jurisdictional officer.

5. Since the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should accept all such applications within a period of 30 days from the date of filing the application, except in the following circumstances:
 - a) The application in **FORM GST REG-16** is incomplete, i.e. where all the relevant particulars, as detailed in para 4 above, have not been entered;
 - b) In case of transfer, merger or amalgamation of business, the new entity in which the applicant proposes to amalgamate or merge has not got registered with the tax authority before submission of the application for cancellation.

In all cases other than those listed at (a) and (b) above, the application for cancellation of registration should be immediately accepted by the proper officer and the order for cancellation should be issued in **FORM GST REG-19** with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in **FORM GST REG-16**. In any case the effective date cannot be a date earlier to the date of application for the same.

6. In situations referred to in (a) or (b) in para 5 above, the proper officer shall inform the applicant in writing about the nature of the discrepancy and give a time period of seven working days to the taxpayer, from the date of receipt of the said letter, to reply. If no reply is received within the specified period of seven working days, the proper officer may reject the application on the system, after giving the applicant an opportunity to be heard, recording reasons for rejection in the dialog box that opens once the „Reject“ button is chosen. If reply to the query is received and the same on examination is found satisfactory, the Proper Officer may approve the application for cancellation and proceed to cancel the registration by issuing an order in **FORM GST REG-19**. If reply to the query is found to be not satisfactory, the Proper Officer may reject the application for cancellation on the system, after giving the applicant an opportunity to be heard. The Proper Officer must also record his reasons for rejection of the application in the dialog box that opens when the „Reject“ button is chosen.
7. Section 45 of the CGST Act requires every registered person (other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52) whose registration has been cancelled, to file a final return in **FORM GSTR-10**, within three months of the effective date of cancellation or the date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer discharges any liability that he/she may have incurred under sub-section (5) of the section 29 of the CGST Act. It may be noted that the last date for furnishing of **FORM GSTR-10** by those taxpayers whose registration has been cancelled on or before 30.09.2018 has been extended till 31.12.2018 *vide* notification No. 58/2018 – Central Tax dated the 26th October, 2018.
8. Further, sub-section (5) of section 29 of the CGST Act, read with rule 20 of the CGST Rules states that the taxpayer seeking cancellation of registration shall have to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. For the purpose of this calculation, the stock of inputs, semi-finished goods, finished goods and capital goods shall be taken as on the day immediately preceding the date with effect from which the cancellation has been ordered by the proper officer i.e. the date of cancellation of registration. However, it is clarified that this requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in **FORM GSTR-10**. In any case, once the taxpayer submits the application for cancellation of his/her registration from a specified date, he/she will not be able to utilize any remaining balances in his/her electronic credit/cash ledgers from the said date except for discharging liabilities under GST Act upto the date of filing of final return in **FORM GSTR-10**. Therefore, the requirement to reverse the balance in the electronic credit ledger is automatically met. In case it is later determined that the output tax liability of the taxpayer, as determined under sub-section (5) of section 29 of the CGST Act, was greater than the amount of input tax credit available, then the difference shall be paid by him/her in cash. It is reiterated that, as stated in sub-section (3) of section 29 of the CGST Act, the cancellation of registration does not, in any way, affect the liability of the taxpayer to pay any dues under the GST law, irrespective of whether such dues have been determined before or after the date of cancellation.
9. In case the final return in **FORM GSTR-10** is not filed within the stipulated date, then notice in **FORM GSTR-3A** has to be issued to the taxpayer. If the taxpayer still fails to file the final return within 15 days of the receipt of notice in **FORM GSTR-3A**, then an assessment order in **FORM GST ASMT-13** under section 62 of the CGST Act read with rule 100 of the CGST Rules shall have to be issued to determine the liability of the taxpayer under sub-section (5) of section 29 on the basis of information available with the proper officer. If the taxpayer files the final return within 30 days of the date of service of the order in **FORM GST ASMT-13**, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.
10. Rule 68 of the CGST Rules requires issuance of notices to registered persons who fail to furnish returns under section 39 (**FORM GSTR-1**, **FORM GSTR-3B** and **FORM GSTR-4**), section 44 (Annual Return – **FORM GSTR-9** / **FORM GSTR-9A** / **FORM GSTR-9C**), section 45 (Final Return – **FORM GSTR-10**) or section 52 (TCS Return – **FORM GSTR-6**). It is clarified that issuance of notice would not be required for registered persons who have not made any taxable supplies during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration) and has furnished an undertaking to this effect.

11. It is pertinent to mention here that section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for “*Suspension*” of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. Although the provisions of CGST (Amendment) Act, 2018 have not yet been brought into force, it will be prudent for the field formations not to issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration under section 29 of the CGST Act. However, the requirement of filing a final return, as under section 45 of the CGST Act, remains unchanged.
12. It may be noted that the information in table in **FORM GST REG-19** shall be taken from the liability ledger and the difference between the amounts in Table 10 and Table 11 of **FORM GST REG-16**.
13. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
14. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)



Circular No. 70/44/2018 -GST

F. No. CBEC/20/16/04/2017-GST
Government of India
Ministry of Finance, Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 2018

To,
The Principal Chief Commissioners/ Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)/
The Principal Directors General / Directors General (All) The Principal CCA, CBIC
Madam/Sir,

Subject: Clarification on certain issues related to refund – Reg.

The Board is in receipt of representations seeking clarification on certain issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), hereby clarifies the issues as detailed hereunder:

2 Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:

Para 7.1 of circular No. 59/33/2018-GST dated the 4th September, 2018 clarifies the intent of law in cases where a deficiency memo is issued in respect of a refund claim. In para 7.2 of the said circular, the practise being followed in the field formations was elaborated and it was clarified that show cause notices are not required to be issued (and consequently no orders are required to be issued in **FORM GST RFD-04/06**) in cases where refund application is not re-submitted after the issuance of a deficiency memo (in **FORM GST RFD-03**). It was also clarified that once a deficiency memo has been issued against an application for refund, the amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”) is required to be re-credited to the electronic credit ledger of the applicant by using **FORM GST RFD-01B** and the taxpayer is expected to file a fresh application for refund.

The issue has been re-examined and it has been observed that presently the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Therefore, it is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in **FORM GST RFD-03** is issued to taxpayers, re-credit in the electronic credit ledger (using **FORM GST RFD-01B**) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

3. Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:

Sub-rule (10) of Rule 96 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “said sub-rule”), restricts exporters from availing the facility of claiming refund of IGST paid on exports in certain scenarios. It was intended that exporters availing benefit of certain notifications would not be eligible to avail the facility of such refund. However, representations have been received requesting that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as “EPCG Scheme”), should be allowed to avail the facility of claiming refund of the IGST paid on exports. GST Council, in its 30th meeting held in New Delhi on 28th September, 2018, had accorded approval to the proposal of suitably amending the said sub-rule along with sub-rule (4B) of rule 89 of the CGST Rules prospectively in order to enable such exporters to avail the said facility notification No. 54/2018 – Central Tax dated the 9th October, 2018 has been issued to carry out the changes recommended by the GST Council. Alongside the amendment carried out in the said sub-rule through the notification No. 39/2018- Central Tax dated 4th September, 2018 has been rescinded vide notification No. 53/2018 – Central Tax dated the 9th October, 2018.

For removal of doubts, it is clarified that the net effect of these changes would be that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification No. 54/2018 – Central Tax dated the 9th October, 2018 referred to above.

Further, after the issuance of notification No. 54/2018 – Central Tax dated the 9th October, 2018, exporters who are importing goods in terms of notification Nos. 78/2017- Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule. All clarifications issued in this regard vide any Circular issued earlier are hereby superseded.

4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
5. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)



Circular No. 71/45/2018-GST

F. No. 349/94/2017-GST
Government of India
Ministry of Finance, Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 26th October, 2018

To,
The Principal Chief Commissioners/ Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All)/
The Principal Directors General/ Directors General (All)
Madam/Sir,

Subject : Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor – Reg.

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sr.	Issue	Clarification
1.	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<ol style="list-style-type: none"> 1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the “<i>estimated net tax liability</i>” only and not the gross tax liability. 2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.

Sr.	Issue	Clarification
2.	As per section 27 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by causal taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	<ol style="list-style-type: none"> 1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person. 2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business. 3. In such cases he would not be required to pay advance tax for the purpose of registration. 4. He can surrender such registration once the exhibition is over.
3.	Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.	<ol style="list-style-type: none"> 1. According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any. 2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03. 3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases. 4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the CGST Act.

2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

3. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Commissioner (GST)



F. No. CBEC/20/16/04/2017-GST
Government of India
Ministry of Finance, Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

Circular No. 72/46/2018-GST

New Delhi, Dated the 26th October, 2018

To,
The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/ Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Circular to clarify the procedure in respect of return of time expired drugs or medicines - Reg.

Various representations have been received seeking clarification on the procedure to be followed in respect of return of time expired drugs or medicines under the GST laws. The issues raised in the said representations have been examined and to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") hereby clarifies the issue in succeeding paragraphs.

2. The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as “goods”) are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. It is significant to mention here that such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as time expired goods and are returned back to the manufacturer, on account of expiry, through the supply chain.
3. It is clarified that the retailer/ wholesaler can follow either of the below mentioned procedures for the return of the time expired goods:

(A) Return of time expired goods to be treated as fresh supply:

- a) In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, “return supply”). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail Input Tax Credit (hereinafter referred to as “ITC”) of the tax levied on the said return supply subject to the fulfilment of the conditions specified in Section 16 of the CGST Act.
- b) In case the person returning the time expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.
- c) In case the person returning the time expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.
- d) Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of the provisions of clause (h) of sub-section (5) of section 17 of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

Illustration: Supposedly, manufacturer has availed ITC of Rs. 10/- at the time of manufacture of medicines valued at Rs. 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is Rs. 15/-. So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/-.

(B) Return of time expired goods by issuing Credit Note:

- a) As per sub-section (1) of Section 34 of the CGST Act the supplier can issue a credit note where the goods are returned back by the recipient. Thus, the manufacturer or the wholesaler who has supplied the goods to the wholesaler or retailer, as the case may be, has the option to issue a credit note in relation to the time expired goods returned by the wholesaler or retailer, as the case may be. In such a scenario, the retailer or wholesaler may return the time expired goods by issuing a delivery challan. It may be noted that there is no time limit for the issuance of a credit note in the law except with regard to the adjustment of the tax liability in case of the credit notes issued prior to the month of September following the end of the financial year and those issued after it.
- b) It may further be noted that if the credit note is issued within the time limit specified in sub-section (2) of section 34 of the CGST Act, the tax liability may be adjusted by the supplier, subject to the condition that the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.
- c) However, if the time limit specified in sub-section (2) of section 34 of the CGST Act has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands. It may further be noted that in case time expired goods are returned beyond the time period specified in the sub-section (2) of section 34 of the CGST Act and a credit note is issued consequently, there is no requirement to declare such credit note on the common portal by the supplier (i.e. by the person who has issued the credit note) as tax liability cannot be adjusted in this case.
- d) Further, where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods, in terms of the provisions of clause (h) of sub-section (5) of section 17 of the CGST Act. This has been illustrated in table below:

	Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer	Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer	Treatment in terms of tax liability & credit note
Case 1	1 st July, 2017	20 th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.
Case 2	1st July, 2017	20th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.

3. It may be noted that though this circular discusses the scenarios in relation to return of goods on account of expiry of the same, it may be applicable to such other scenarios where the goods are returned on account of reasons other than the one detailed above.
4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

Upender Gupta
Commissioner (GST)



NOTIFICATION

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance (Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. 53/2018 – Central Tax

New Delhi, the 9th October, 2018

G.S.R.....(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Eleventh Amendment) Rules, 2018.
(2) They shall be deemed to have come into force with effect from the 23rd October, 2017.
2. In the Central Goods and Services Tax Rules, 2017, in rule 96, for sub-rule (10), the following sub-rule shall be substituted and shall be deemed to have been substituted with effect from the 23rd October, 2017, namely:-

“(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 or notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number

G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 or notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017- Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13th October, 2017.”.

Note :- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R 610 (E), dated the 19th June, 2017 and last amended vide notification No. 49/2018-Central Tax, dated the 13th September, 2018, published vide number G.S.R 867 (E), dated the 13th September, 2018.



[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India

Ministry of Finance (Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. 54/2018 – Central Tax

New Delhi, the 9th October, 2018

G.S.R.....(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Twelfth Amendment) Rules, 2018.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 89, for sub-rule (4B), the following sub-rule shall be substituted, namely:-
“(4B) Where the person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax has –
(a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017; or
(b) availed the benefit of notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272 (E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017,
the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.”.
3. In the said rules, in rule 96, for sub-rule (10), the following sub-rule shall be substituted, namely:-
“(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have -
(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number
G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed;
or
(b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272 (E), dated the 13th October, 2017 or

notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.”.

[F. No. 349/58/2017-GST (Pt.)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

Note :- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* notification No. 3/2017-Central Tax, dated the 19th June, 2017, published *vide* number G.S.R 610 (E), dated the 19th June, 2017 and last amended *vide* notification No. 53/2018 - Central Tax, dated the 9th October, 2018, published *vide* number G.S.R 1007 (E), dated the 9th October, 2018.



[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i)]

Government of India
Ministry of Finance Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. 56/2018 – Central Tax

New Delhi, the 23rd October, 2018

G.S.R. (E).—In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017), hereinafter referred to as the “said Act”, the Central Government, on the recommendations of the Council and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 32/2017 – Central Tax, dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 1158 (E), dated the 15th September, 2017, except as respects things done or omitted to be done before such supersession, hereby specifies the categories of casual taxable persons (hereinafter referred to as „such persons”) who shall be exempted from obtaining registration under the said Act-

- (i) such persons making inter-State taxable supplies of handicraft goods as defined in the “*Explanation*” in notification No. 21/2018 -Central Tax (Rate), dated the 26th July, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) *vide* number G.S.R.695 (E), dated the 26th July, 2018 and falling under the Chapter, Heading, Sub-heading or Tariff item specified in column (2) of the Table contained in the said notification and the Description specified in the corresponding entry in column (3) of the Table contained in the said notification;

or

- (ii) such persons making inter-State taxable supplies of the products mentioned in column (2) of the Table below and the Harmonised System of Nomenclature (HSN) code mentioned in the corresponding entry in column (3) of the said Table, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process:-

Table

Sr.	Products	HSN Code
1.	Leather articles (including bags, purses, saddlery, harness, garments)	4201, 4202, 4203
2.	Carved wood products (including boxes, inlay work, cases, casks)	4415, 4416
3.	Carved wood products (including table and kitchenware)	4419
4.	Carved wood products	4420
5.	Wood turning and lacquer ware	4421
6.	Bamboo products [decorative and utility items]	46
7.	Grass, leaf and reed and fibre products, mats, pouches, wallets	4601, 4602
8.	Paper mache articles	4823
9.	Textile (handloom products)	including 50, 58, 62, 63
10.	Textiles hand printing	50, 52, 54

Sr.	Products	HSN Code
11.	Zari thread	5605
12.	Carpet, rugs and durries	57
13.	Textiles hand embroidery	58
14.	Theatre costumes	61, 62, 63
15.	Coir products (including mats, mattresses)	5705, 9404
16.	Leather footwear	6403, 6405
17.	Carved stone products (including statues, statuettes, figures of animals, writing sets, ashtray, candle stand)	6802
18.	Stones inlay work	68
19.	Pottery and clay products, including terracotta	6901, 6909, 6911, 6912, 6913, 6914
20.	Metal table and kitchen ware (copper, brass ware)	7418
21.	Metal statues, images/statues vases, urns and crosses of the type used for decoration of metals of Chapters 73 and 74	8306
22.	Metal bidriware	8306
23.	Musical instruments	92
24.	Horn and bone products	96
25.	Conch shell crafts	96
26.	Bamboo furniture, cane/Rattan furniture	94
27.	Dolls and toys	9503
28.	Folk paintings, madhubani, patchitra, Rajasthani miniature	97

Provided that such persons are availing the benefit of notification No. 03/2018 – Integrated Tax, dated the 22nd October, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1052(E), dated the 22nd October, 2018:

Provided further that the aggregate value of such supplies, to be computed on all India basis, does not exceed the amount of aggregate turnover above which a supplier is liable to be registered in the State or Union territory in accordance with sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to that section.

2. Such persons mentioned in the preceding paragraph shall obtain a Permanent Account Number and generate an e-way bill in accordance with the provisions of rule 138 of the Central Goods and Services Tax Rules, 2017.

[F. No. 349/58/2017-GST(Pt.)]

(Gunjan Kumar Verma)

Under Secretary to the Government of India

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i)]

Government of India

Ministry of Finance (Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. 57/2018 – Central Tax

New Delhi, the 23rd October, 2018

G.S.R.(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 51 of the Central Goods and Services Tax Act, 2017 (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 50/2018-Central Tax dated the 13th September, 2018 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 868 dated the 13th September, 2018, namely:—

In the paragraph of the notification, the following proviso shall be inserted, namely:-

“Provided that with respect to persons specified under clause (a) of sub-section (1) of section 51 of the Act, nothing in this notification shall apply to the authorities under the Ministry of Defence, other than the authorities specified in the Annexure-A and their offices, with effect from the 1st day of October, 2018.”

[F. No. 349/58/2017- GST (Pt.)]

Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 868 (E), dated the 13th September, 2018.



[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. 58/2018 – Central Tax**

New Delhi, the 26th October, 2018

G.S.R....(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the 'said Act'), read with section 45 of the said Act and rule 81 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), the Central Government, on the recommendations of the Council, hereby notifies the persons whose registration under the said Act has been cancelled by the proper officer on or before the 30th September, 2018, as the class of persons who shall furnish the final return in **FORM GSTR-10** of the said rules till the 31st December, 2018.

[F. No. 349/58/2017-GST(Pt.)]

(Gunjan Kumar Verma)
Under Secretary to the Government of India



[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India
Ministry of Finance Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. 59/2018 – Central Tax**

New Delhi, the 26th October, 2018

G.S.R... (E). - In pursuance of section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 40/2018-Central Tax, dated the 4th September, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 832(E), dated the 4th September, 2018, except as respects things done or omitted to be done before such supersession, the Commissioner, hereby extends the time limit for furnishing the declaration in **FORM GST ITC-04** of the said rules, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 till the 31st day of December, 2018.

[F. No. 349/58/2017- GST (Pt.)]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

ARTICLES

Tax Deducted at Source (TDS) under Goods and Service Tax

Recently Central Government has issued **Notification No. 50 – 2018; dated 13/09/2018**, giving a final green signal for the implementation of TDS under GST (Section 51 of CGST) with effect from 1st October 2018.

1. What is TDS?

Tax Deducted at Source (TDS) is one of the ways to collect tax based on certain percentages on the amount payable by the receiver on goods/services. The collected tax is revenue for the government.

2. Who could be liable to deduct TDS under GST law?

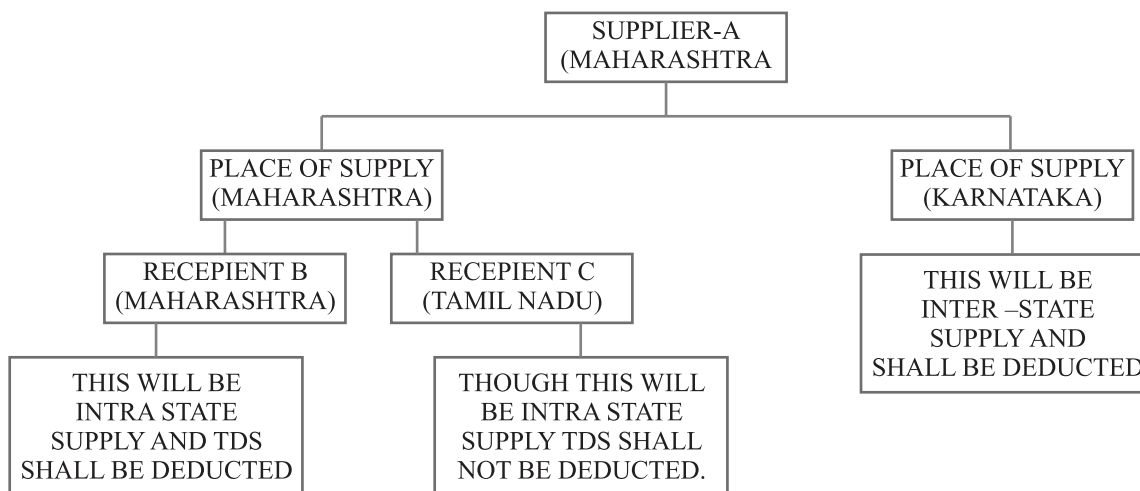
- ☐ A department or an establishment of the Central Government or State Government; or
- ☐ Local authority; or
- ☐ Governmental agencies; or
- ☐ Such persons or category of persons as may be notified by the Government.

As per the latest Notification dated 13th September 2018, the following entities also need to deduct TDS:-

- ☐ An authority or a board or any other body which has been set up by Parliament or a State Legislature or by a government, **with 51% equity** (control) owned by the government.
- ☐ A society established by the Central or any State Government or a Local Authority and the society is registered under the Societies Registration Act, 1860.
- ☐ Public sector undertakings

3. When will the liability to deduct TDS be attracted? What is the rate of TDS?

TDS is to be deducted at the rate of **2 percent on payments** made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, **exceeds two lakh fifty thousand rupees**. No deduction of Tax is required when the location of supplier and place of supply is different from the State of the registration of the recipient.



4. What are the registration requirements for TDS deductors?

A person who is liable to deduct TDS has to compulsorily register and there is no threshold limit for this. The registration under GST can be obtained without PAN and by using the existing Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act. Thus it can be said having TAN is mandatory

5. When and to whom should the TDS be paid?

TDS shall be paid within 10 days from the end of the month in which tax is deducted. The payment shall be made to the appropriate government which means:

- ☐ The Central Government in case of the IGST and the CGST
- ☐ The State government in case of the SGST

6. What are the provisions relating to the issue of TDS certificates under the GST law?

As in Income Tax Law, here also the person deducting tax has to issue the TDS certificate in form GSTR-7A to the concerned person within 5 days of depositing the tax to the government. Failure to do so will make the person liable to pay a late fee of Rs. 100 per day up to a maximum of Rs. 5000

7. How will the Value of supply on which TDS shall be deducted be considered?

For purpose of deduction of TDS, the value of supply is to be taken as the amount excluding the tax indicated on the invoice. This means TDS shall not be deducted on the CGST, SGST or IGST component of invoice.

For Example Supplier A makes a supply worth Rs. 5000 to B. The rate of GST is 18%. When B pays A, He/She will pay Rs. 5000 (worth of Supply) + Rs 900 (GST) to A and Rs. 100 (RS. 5000*2%) as TDS to the government. So it can be said that TDS is not deducted on the tax element (GST) of a transaction.

8. Which form is required to file the TDS return?

The person deducting tax is required to file a TDS return in form GSTR-7 within 10 days from the end of the month. When GSTIN of the unregistered supplier is not available, their name can be mentioned. The robustness of the system reflects these filled-in details in the electronic ledger of the supplier.

9. What is the benefit of TDS to the deductee (Supplier)?

As stated above, there will an automatic reflection in the electronic ledger of the deductee (supplier) once the deductor files his/her returns. The deductee can claim credit in his electronic cash ledger of this tax deducted and use it for payments of other taxes.

10. How is Refund of TDS possible under GST?

If any excess amount is deducted and paid to the government, a refund can be claimed as this is not the tax amount that the government has a right on. However, if the deducted amount is already added to the electronic cash ledger of the supplier, the amount so added cannot be got back as a refund by the deductor. Deductee can claim a refund of tax subject to refund provisions of the act

Provisions of TDS under GST
(Applicable from 1st October 2018)

Sr.	Question	Answer
1	Relevant Section	Sec. 51 (CGST Act & SGST Act); Sec. 20 (IGST Act).
2	When to Deduct?	The specified class of person* shall be required to deduct tax at source on the payment made or credited to the supplier. where the total value of supply under a contract exceed Rs.2,50,000/-excluding GST.
3	Rate at which Deducted?	Intra State: 2% (CGST 1% + SGST 1%) or Inter State: 2% IGST
4	Form or Return to be Furnished?	Form GSTR - 7.
5	Due date to file Return?	Within 10th of succeeding month.
6	Due Date to Deposit TDS Under GST with the Government?	Within 10th of succeeding month in which TDS deducted.
7	TDS Certificate under GST:	
a.	Who is required to issue TDS Certificate?	Deductor (the person who is deducting tax).
b.	Form?	Form GSTR-7A
c.	Due Date to Issue Certificate?	Within 5 days of crediting the amount to the Government.
d.	Late fees if not issued within Time?	Rs.200 per day (Rs.100 CGST + Rs.100 SGST) from the expiry of the 5th day till the certificate is issued.
8	When TDS not to be Deducted?	When both the place of supplier as well as the place of supply are different from that of the place of recipient. See Example Below **.

RELEVANT NOTIFICATIONS OF GST-TDS

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i)]

Government of India Ministry of Finance

(Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. 50/2018 – Central Tax

New Delhi, the 13th September, 2018

G.S.R.(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and in supercession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 33/2017-Central Tax, dated the 15th September, 2017, published in the Gazette of India,

Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1163 (E), dated the 15th September, 2017, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the 1st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force with respect to persons specified under clauses (a), (b) and (c) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely:-

- (a) An authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function;
- (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- (c) Public sector undertakings.

[F. No. 349/58/2017-GST(Pt.)]

(Gunjan Kumar Verma)

Under Secretary to the Government of India



[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise and Customs

Notification No. 33/2017 – Central Tax

New Delhi, the 15th September, 2017

G.S.R.(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 18th day of September, 2017 as the date on which the provisions of sub-section (1) of section 51 of the said Act shall come into force with respect to persons specified under clauses (a) and (b) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely:-

- (a) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with fifty-one percent or more participation by way of equity or control, to carry out any function;
- (b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- (c) Public sector undertakings:

Provided that the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Central Government.

[F. No. 349/58/2017-GST (Pt.)]

(Dr.Sreeparvathy S.L.)

Under Secretary to the Government of India



INPUT TAX CREDIT- REVIEW AUDIT UNDER GST

The GST audit under Section 35(5) of CGST Act, 2017 has not been notified till date. However, the industry and trade needs to carry out input tax credit (ITC) review before the last date of filing of September 2018 return [20th October 2018]. It is understood that there could be a number of errors of understanding, system errors and transactional mistakes in the year 2017-18. The registered persons would have a chance to ensure total reconciliation and proper availment is carried out before this time limit expires. Those who miss this window may have to face disputes and litigation if they were to avail the ITC after this date.

The article provides some insights into the possible coverage in this ITC review providing draft a step wise ITC review list with comments. Some of the common expected errors in ITC have also been provided for ensuring that the ITC review is effective. Also, the article provides a sample reconciliation statement of ITC. Read on to know more...

Steps in ITC Review

- i. Understand the business: The general background of industry, company, challenges in indirect taxes faced by them, type of vendors and type of customers. This would help in conduct of the review.
- ii. Confirm the existence of adequacy of systems and controls: Internal controls in indirect taxes have not been put in most organisation and change to GST may have further delayed it. Reliance on the normal audits checks may not be adequate due to various reasons. The transactions which may not be reflected in the books of account like stock transfers to different states, agent/ principal supply, supplies with related parties which are without consideration, reverse charge, etc. are normally not accounted in the financial system in the form of usual inward-outward supplies. These aspects may need confirmation of proper systems to comply and reconcile the liabilities as well as the credits.
- iii. Review of procurement policy of the organisation including imports: The importance of the tax clause to ensure optimisation of the credits and ensuring vendor has paid taxes owed on the supply. Further the knowledge of credits to the procurement team may be limited.
- iv. Invoice Validity: The requirement of payment on taxes only if indicated in the invoice along with specified particulars. Also, confirm that all invoices where credit has been taken are available for verification and preserved properly.
- v. Review the nature of services and goods- the nature of expenses incurred to ascertain GST impact and to assess GST credits: Any goods and services used in furtherance of business are eligible for credit other than those blocked. All major value of inputs, capital goods and services need to be identified.
- vi. Review of Sources: The question of procurements made only through registered dealer/ manufacturer/service provider needs to be confirmed. In case of procurement from unregistered dealer, the possibility of credit chain being broken and consequent increase in costs to be confirmed.
- vii. Review the system of claiming credit: The time of supply would be important for availing credit in respect of Inputs, Capital goods and RCM expenses. Verify if the goods and services are actually received and in a verifiable manner.
- viii. Review the major agreements/ orders: This can be done by review of sample invoices based on which credits are claimed to study impact under GST with respect to taxations and credits.
- ix. Review of expenses liable for GST under RCM: Most of the RCM payments could also be eligible for credits. If so, whether paid and availed, to avoid payment of irrecoverable interest.
- x. Studying the nature of books of accounts maintained: The books to capture and identify that ITC has been availed. Review of financial ledgers to ensure that ITC are taken on all eligible heads. There may be a need to have bifurcation of accounts to enable the capture of such information.
- xi. Review of treatment of purchase returns to study the possible impact under GST: The tax paid on purchases returns on GST invoice is equal to credit on inputs.
- xii. Review the foreign currency payments: To ascertain RCM liability and availment of ITC.
- xiii. Review of goods/services at Branches/ Business verticals: Confirm if invoices are addressed properly for goods/services received at locations. Ensure that credit capture system and reconciliation is available in all branches within and outside the State. If expenses incurred at other than branches registered in the State, confirm that an input service distributor registration exists.
- xiv. Review terms of purchase orders vis-à-vis purchase invoices: Defective invoices can lead to disputes at a later date. They can, however, be rectified once identified.
- xv. Review of rate of taxes: This would be more important for goods or services supplied. It may also be value additive for the vendors if the customer confirms the taxes. This should not be the responsibility of the customer but as on date, it could be.
- xvi. Review of method of capitalising the work in progress: This is to examine whether ineligible credits exist or eligible credits are not availed. This should be as per Accounting Standards and GST law.
- xvii. Review of credit availment mechanism and conditions to be fulfilled for credit: The need for having received the goods or services; the issue of a valid invoice, goods and/or services used in furtherance of business. There may be a need to suggest improvement to automatically record the credit which can later be confirmed. This would be important in bringing down the cost of procurement of goods or services.

- xviii. Review if the payments are made within stipulated time for taking credit: There is a time limit for making payment to vendors i.e., within 180 days. If it exceeds, ITC needs to be reversed with interest. However, an amendment for without interest reversal has been proposed for amendment in the CGST Bill. On payment to the vendor, the credit can be claimed back. System to capture such reversals in recoverable accounts and their periodic nullifying may be suggested.
- xix. Review if discounts agreed and valuation adopted by vendors: Ensure that they are in line with law and do not lead to loss of credits or double taxation.
- xx. Review of debit notes and credit notes on sampling basis: This is to ascertain the impact on ITC: To confirm that the credit be availed only if receiver/ customer had reversed the credit.
- xxi. Review of credit register: Look for patterns and confirm evidence captured/ filed in order to satisfy the scrutiny by internal / external auditors.
- xxii. Review of import documents, job work inward invoices, stock transfer inward invoices, etc. Some of these may not be accounted in the system as they are not financial entries but have an impact on ITC.
- xxiii. Review if there are transactions of personal nature: In such cases credit is not available.
- xxiv. Review of goods issued free of cost (FOC) or as samples: At times the value of such FOC supplies may have to be included in the final supply at which time if the credit of such FOC is lost it may not be competitive, as credit in between has been lost.
- xxv. Review of credit apportionment in case of supply of taxable and exempted supplies: The capture of credit, specific to each and only the common credits being allocated, is a preferred way forward.
- xxvi. Review of credit availment in case of assets put partially for non-business /non-taxable use: The reversal for personal use needs to be confirmed.
- xxvii. Review of various returns filed under GST such as GSTR 1 and GSTR 3B and identification of differences in ITC if any, between GSTR 3B and GSTR 2A. [Reconciliation to be provided by Auditee].
- xxviii. Review of TRAN-1, TRAN-2 filed: This is to be confirmed with what was eligible and if any excess availed to be reversed. If short availed disclosure could be made as last date is over. Court could provide additional time.
- xxix. Review of disputable credits: These credits could be availed and reversed with intimation to revenue avoid time limitation.
- xxx. Review of credit accumulations: Reason to be ascertained and option, if any, exercised for encashment of such credits through refund or rebate.
- xxxi. Review of important ratios: The credit availed and utilised to total GST, ITC/ Total purchases and expenses among others.
- xxxii. Common Errors: Identifying and correcting the errors observed in the above review and also confirming with a list of common errors (provided further) .
- xxxiii. Identification of transactions with distinct persons eg. support services by HO to factory situated in a different state. If so, cross charge of the same is to be looked into.
- xxxiv. Identification of barter activities or transactions which may not reflect in books of accounts. In the same line identification of non-monetary consideration in any exchange transaction, which leads to revision of valuation.

Common Errors in ITC

The errors are expected to be mainly centered around vendor compliances impacting ITC, doubtful credits, missed or short credits. Excess or duplicate credits, debit/credit note adjustments, capital goods credit vis-à-vis capitalisation, reversal for exempt supplies and reverse charge. We examine some of them in more detail hereunder:

1. Considering ITC balance to payoff liability under reverse charge.

- ☐ Recipient cannot utilise ITC for discharging RCM liabilities. GST portal also does not allow such adjustment while filing returns.
- ☐ ITC can be claimed in the same month where taxes are paid by the recipient under RCM in end of previous month.

2. Discharging GST under reverse charge on services under Section 9(3).

- ☐ Auditor needs to understand place of supply especially for export or import of services.

- ☐ The old service tax law and the GST Act differ and there are some transactions which no longer attract GST. If paid, then refund can be sought as it is within limitation. *Illustration: Rent acabormanpower services which were liable for RCM under earlier tax regime but are not notified services under GST regime.*

3. ITC could be claimed on the taxes paid under RCM on the GTA services.

- ☐ ITC is only restricted for provider of GTA service who pays at 5%. The customer who pays taxes under RCM could avail ITC if eligible.

4. Treating export of goods/services as exempted goods/services and not availing eligible credits related to same.

- ☐ Refund of taxes paid on the goods or services could be availed by the person making the exports even when output GST is not paid on exported goods/exported services.

5. Non-reversal of ITC in cases where payment is not made to supplier within 180 days from the date of invoice.

- ☐ Reversal of ITC with interest is required. (recently the amendment for no interest has been made- but retrospective applicability not made clear).
- ☐ The care to enable re-credit on future payment can be suggested.

6. Inter-State purchases made from unregistered persons.

- ☐ Procure goods only from a registered vendor and avail eligible ITC.
- ☐ ITC availed on the basis of invoice of registered dealer provided by the unregistered person would not be available.
Further availing ITC on the basis of photocopies may be disputed.
- ☐ No restriction for availing 100% of ITC on the purchase of capital goods. [50% credit was in earlier central excise regime].

7. Availing ITC on supplies specifically blocked under Section 17.

- ☐ Not allowed and if availed has to be reversed.

8. Availing credit when the same is restricted by rate notification.

- ☐ Where ITC was availed when the conditional of notification restricts. Credit to be reversed with interest.

9. Availing ITC merely on receipt of invoice without actual receipt of goods/services.

- ☐ ITC could be availed only on receipt of invoice and goods (constructive receipts on instruction of purchaser included).

10. Non-reversal of proportionate ITC in respect of exempted supplies, non-business purpose use.

- ☐ Non-business, non-taxable or exempt supplies are not eligible for credit. It would amount to non-compliance of Rule 42 and 43 of the CGST Rules, 2017. Supplies, where rate notification restricts availment of ITC (eg restaurant) shall be treated as exempt supplies for the purposes of computation of ITC reversal under Rule 42 & 43 of CGST Rules, 2017.

11. Non-availment of ITC on bank charges.

- ☐ ITC could be availed as there is no specific restriction under Section 17(5).

12. Non-reversal of ITC in respect of goods lost, stolen, destroyed, written off or distributed as gifts/free samples.

- ☐ Where ITC is availed and then the goods lost, stolen, destroyed, written off or distributed as gifts/free samples, ITC has to be reversed with interest.
- ☐ Written off could mean fully written off and therefore provision may not impact this.
- ☐ Inputs destroyed before putting into the production process would be covered.
- ☐ Inputs sent as samples are covered in this section. Inputs contained in final products would not be impacted.

13. Delay in availing ITC.

- ☐ Avail the ITC on monthly basis and utilise for payment of output liability.
- ☐ The absence of proper mechanism/checklist to determine the eligibility of ITC of various purchase/procurement transactions.

Following is the format of ITC reconciliation for making the auditor's job easier:

Sample Reconciliation Format - ITC for year 2017-18

Sl. No.	Particulars	Total
Less:	Input Tax Credit as per Books	xx
A.	Credit relating to other registered persons/distinct persons	
B.	Credit on which input tax credit is not available due to the following:	
i.	ITC used for transaction which are not a supply as per Schedule III or the definition of supply	
ii.	ITC on Inward supplies received from composition suppliers	
iii.	ITC on Goods / services are not used in the course or furtherance of business under Section 17(1)	
iv.	Credit ineligible as the goods/services received are used wholly for effecting exempt supplies (excluding exports)	
v.	Credit ineligible under Section 17(5)(a) : On motor vehicles and other conveyances	
vi.	Credit ineligible under Section 17(5)(b)(i) : On food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery	
vii.	Credit ineligible under Section 17(5)(b)(ii) : On membership of a club, health and fitness centre	
viii.	Credit ineligible under Section 17(5)(b)(iii) : On rent-a-cab, life insurance and health insurance	
ix.	Credit ineligible under Section 17(5)(b)(iv) : On travel benefits extended to employees on vacation	
x.	Credit ineligible under Section 17(5)(c) : On works contract services when supplied for construction of an immovable property	
xi.	Credit ineligible under Section 17(5)(d) : On goods / services received for construction of an immovable property on own account	
xii.	Credit ineligible under Section 17(5)(g) : On goods or services or both used for personal consumption;	
xiii.	Credit ineligible under Section 17(5)(h) : On goods lost, stolen, destroyed;	
xiv.	Credit ineligible under Section 17(5)(h) : On goods fully written off;	
xv.	Credit ineligible under Section 17(5)(h) : On goods disposed of by way of gift;	
xvi.	Credit ineligible under Section 17(5)(h) : On goods disposed of by way of free samples;	
xvii.	Credit ineligible under Section 17(5)(i) : In respect of tax paid in accordance with the provisions of sections 74, 129 and 130;	
xviii.	Credit not taken as the recipient's GSTIN was not mentioned / mentioned incorrectly	
xix.	Credit reversed under Section 17 (4) for a banking company / financial institution / non banking financial company	
xx.	Credit not taken as the place of supply is outside the State	
C.	Proportionate reversal of Credit under Section 17(2): Reversal for exempt supplies.	
D.	Credit reversed under Section 16(2) (d) due to non payment in 180 days	
E.	Credits which will be taken in the subsequent year	
F.	Credits reversed under protest: This maybe due to doubt direction of revenue	
G.	Any other (please specify)	
Add:	Adjusted ITC Amount as per financials (in the State)[sub-total]	xx
A.	Credit under Section 140-143- Transitional	
B.	Credit available under Section 18 on registration opting out of composition etc.	
C.	Credit reversed due to 180 days now availed.	
D.	Credit on purchase of capital assets	
E.	Credit on prepaid expenses of this year if missed	
F.	Missed credit from 1st July 2017 till 31st March 2018	
G.	Adjustments in Valuation Section 15	
H.	Any other (please specify)	
	Final Adjusted as per financials	xx
	Amount of ITC as per Annual Return (in a State)	xx
	Difference if any to be analysed	x

NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 2018

The Negotiable Instruments Act, 1881 was enacted to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques. It also specifies penalties for bouncing of cheques, and other violations with respect to such negotiable instruments.

The said Act has been amended from time to time in 1989, 2002, 2015 so as to provide, inter alia, speedy disposal of cases relating to the offence of dishonour of cheques. With a view to address the issue of undue delay in final resolution of cheque dishonour cases so as to provide relief to payees of dishonoured cheques and to discourage frivolous and unnecessary litigation, Parliament enacted the Negotiable Instruments (Amendment) Act, 2018 and notified by the Central Government on 1st September, 2018. The Amendments Act strengthen the credibility of cheques and help trade and commerce in general by allowing lending institutions, including banks, to continue to extend financing to the productive sectors of the economy. The Negotiable Instruments (Amendment) Act, 2018 inserted two new section i.e. Section 143A dealing with Power to direct interim compensation and Section 148 dealing with Power of Appellate Court to order payment pending appeal against conviction.

Power to direct interim compensation

Section 143A(1) Negotiable Instruments (Amendment) Act, 2018 provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under section 138 of the Negotiable Instrument Act, 1881 (Dishonour of cheque for insufficiency, etc., of funds in the account) may order the drawer of the cheque to pay interim compensation to the complainant—

- (a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and
- (b) in any other case, upon framing of charge.

Section 143A (2) states that the interim compensation under sub-section (1) shall not exceed twenty per cent. of the amount of the cheque.

Section 143A (3), the interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

As per Section 143A (4), if the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

Section 143A (5) provides that the interim compensation payable section 143A may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.

As per Section 143A(6), the amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.

Power of Appellate Court to order payment pending appeal against conviction

Section 148(1) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under section 138 of the Negotiable Instrument Act, 1881 (Dishonour of cheque for insufficiency, etc., of funds in the account), the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court.

The amount payable shall be in addition to any interim compensation paid by the appellant under section 143A.

Section 148(2) states that the amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

As per Section 148(3) the Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

It may be noted that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

EIGHT PATH-BREAKING AMENDMENTS PROPOSED BY THE GST COUNCIL IN ITS 28TH MEETING

28th meeting of the GST Council held in the month of July 2018 is one of its landmark meetings in several ways. Post introduction of the GST, it is the first meeting wherein amendments in the Goods and Services Tax Acts ('GST Acts') have been proposed. Further, the GST council has attempted to plug major loopholes in the GST framework through this meeting. This meeting also takes into consideration practical issues emanating out of recent advance rulings and provides a relief to taxpayers by proposing remedial measures. In substance, the amendments proposed are a major step towards ironing-out several issues under the GST laws in order to facilitate trade and ease of doing business. For detailed understanding of reader, this article has identified and discussed in detail below eight key amendments proposed by the GST Council. Read on...

Applicability of GST on Sale of Goods Located Outside India

Background : Under the current framework of the GST laws, there was a possibility of interpretation that, Integrated Goods and Services Tax ('IGST') is applicable even on sale of goods located outside

India if effected by a supplier located in India. To put this into perspective let's assume a situation where Jeweler A located in Surat sells a solitaire located in Belgium to Jeweler B located in Belgium. Although the goods (i.e., the solitaire) is located in Belgium (i.e., outside India) and the buyer is also located in Belgium, a view could have been entertained that IGST would still apply on the sale value. This creates following issues:

- ☐ extra-territorial operation of the GST laws since tax would apply on sale of goods located outside India;
- ☐ non-availability of input tax credit ('ITC') of GST paid to the buyer located outside India;
- ☐ the goods would suffer double taxation (since tax on the solitaire located in Belgium could also apply under Belgian tax laws).

Conceptually, this was a major design flaw in the GST laws – contrary to global standard practice of non-applicability of indirect taxes on the goods located outside the country levying the tax.

It is important to mention here that under a similar fact situation, although the Authority for Advance Ruling ('AAR')² of Kerala opined that such transactions are not subject to GST, but this conclusion was based on the circular³ concerning taxability of High Sea Sales transactions. Since, the ruling was not based purely on the relevant legal provisions, there was a possibility to arrive at a different conclusion by a higher forum.

Proposal : For curbing the extra-territorial operation of GST, the GST Council has proposed to include the supply of goods from a place in non-taxable territory to other place in non-taxable territory without entering into India in the third Schedule of the Central Goods and Services Tax Act, 2017 ('CGST Act') (i.e., activities or transactions which shall be treated neither as supply of goods nor supply of services).

Once the above amendment is carried out, the transaction involving sale of goods located outside India would not be treated as a taxable supply and consequently GST would not be applicable on the same. This amendment will bring a major relief to Indian taxpayers having business operations of sale outside India.

Taxability of High Sea Sales ('HSS') Transactions

Background : HSS transaction where goods are sold by a person in India even before they cross the customs frontiers of India (i.e., while they are still in-transit during an international transportation), were specifically made non-taxable under the erstwhile laws (i.e., Central Sales Tax as well as State specific VAT Acts).

However, under the GST laws, in the absence of specific exclusion there was an ambiguity on taxability of HSS transactions, i.e.:

- ☐ Whether GST applies on sale of goods that are not located in India (i.e., located at High Seas at the time of their sale)?
- ☐ Who is liable to pay tax on HSS transaction– the seller or importer who purchases goods on HSS basis and on what value?
- ☐ If the importer is liable to pay applicable GST, will this tantamount to double taxation (since the importer would again be liable to pay IGST at the time of customs clearance of the goods)?
- ☐ What is the mechanism to claim ITC of IGST paid on HSS transaction and utilise against the tax payable at the time of import of goods purchased on HSS basis?

To temporarily resolve this burning issue, Central Board of Indirect Taxes and Customs ('CBIC') issued a circular² clarifying that GST on HSS transaction would be levied only once i.e., at the time of customs clearance. Basis the circular, the AAR, Maharashtra also laid down that HSS transaction would be subject to IGST only at the point of import⁴. Although this circular and the ruling were beneficial for taxpayers, they lacked legal backing as regard to taxability of HSS transaction.

Proposal : The GST Council has recommended to include the supply of goods in case of HSS in the third Schedule of the CGST Act. After the said inclusion, HSS transaction between a supplier and importer located after the goods have been dispatched from the port of origin but before clearance for home consumption in India would not be treated as supply of goods or services as per schedule III and no GST would be leviable on the same. This amendment would set at rest the ambiguity concerning taxability of thousands of sale-purchase transactions that are carried out on HSS basis.

Supply of Warehoused Goods to Any Person Before Clearance For Home Consumption

Background : Like HSS transactions, under the current indirect tax provisions⁵, sale of goods lying in customs bonded warehouse (i.e., before they are cleared for home consumption) is conceptually treated as a sale of goods outside India since such sale happens before the goods cross the customs frontiers of India. Although no Customs Duty apply on such transactions, there is no similar exclusion currently under the GST laws.

This omission resulted in double taxation of warehoused goods in the hands of importer clearing the goods from the warehouse, i.e., firstly, at the time of purchase of the goods from the original importer and secondly, at the time of customs clearance of the goods from the warehouse. Double taxation of such goods was initially confirmed by Customs in its circular⁶. However, in a later circular⁷, CBIC clarified that the sale of goods would be taxed only once – at the time of clearance from bonded warehouse for home consumption⁸. Thus, even at Government's end there were two contrary circulars issued as regards taxability of such transactions.

Proposal : In order to resolve the controversy, the GST Council has proposed inclusion of the transaction involving supply of warehoused goods before clearance for home consumption in the third Schedule of the CGST Act. Once the amendment comes into force, such transactions would not be treated as a taxable supply, accordingly, GST would not be chargeable before the stage of customs clearance.

Sale of goods lying in customs bonded warehouse is a common business practice and is preferred in cases involving assembly, treatment of goods before their clearance or to secure customs exemptions etc. This amendment will settle the ambiguity in the favor of taxpayers.

Taxability of Services Provided by an Indian Office to its Overseas Entity

Background : Under the erstwhile Service Tax law, services provided by an Indian Branch office/ Project office/Liaison office etc. to its overseas entity were not chargeable to tax since the place of provision of such services was treated to be outside India. Therefore, even though such services did not qualify as 'export'⁹, Service Tax was not applicable on such services.

However, the current framework of the GST laws is such that supply of services by an Indian Branch office etc. to its overseas entity is treated as an inter-state supply and at the same time they do not qualify as 'export'¹⁰. To add complications, even services provided without consideration in such cases are deemed as 'supply'¹¹ and require payment of tax on value computed in accordance with valuation provisions.

This interplay of current GST provisions causes huge escalation in the cost of overseas entity on account of GST charged at the rate of 18% by Indian Branch office etc. towards cost in India plus profit margin, if any. Owing to this non-viability, many overseas entities converted their Branch Offices etc. into a subsidiary company. But this too was not a very viable option as formation and operation of subsidiary involves heavy compliance costs.

Proposal : Pursuant to the recommendations of the GST Council, services supplied by an establishment of a person in India to any establishment of that person outside India have been exempted, provided the place of supply of the services is outside India¹².

Consequently, with effect from 27th July 2018, the services supplied by any Branch office etc. to its overseas entity shall not attract GST. As a fall back, GST paid by such offices on their procurements would be a cost, but from the standpoint of the overall enterprise cost that would be much less than the cost on account of GST applicable on the gross amount chargeable by the Indian Branch office etc.

Undoubtedly, through this amendment Branch offices of overseas banks, Project offices of oil companies and several other similar establishments of overseas entities will stand benefitted as their cost of doing business in India would reduce significantly.

ITC on Transactions Included in The Third Schedule of The CGST Act

Background: Under the GST laws, ITC on goods or services used by tax payer attributable to exempt supplies is required to be reversed. Exempt supplies are not just limited to the supplies that are exempt through a notification, but also include 'non-taxable' supplies. 'Non-taxable' supplies mean supply of goods or services which are not leviable to tax under the GST laws.

On a combined reading of the above provisions, in a current ruling issued by the AAR, Maharashtra¹², it was held that ITC is required to be reversed in the case of HSS transactions. This caused a big hue and cry among the taxpayers undertaking HSS transactions entailing huge values (as the same would have wiped-off their entire ITC due to this technical issue, that was otherwise eligible).

Proposal : The GST Council has recommended that ITC reversal is not required on the transaction specified in the third Schedule of the CGST Act, other than transaction relating to sale of land and completed building¹³. Even though under the current provisions it was possible to take a position that ITC reversal was not required on the activities covered in the third Schedule of the CGST Act (except sale of land and completed building), this amendment would certainly save the taxpayers from long-drawn litigation in case their eligibility to take ITC was challenged by the tax department.

Non-reversal of ITC on transaction such as HSS, sale of goods located in bonded warehouse or outside India, certain actionable claims is a desirable amendment in the GST design which will immensely benefit many taxpayers.

Other Relaxation in ITC Provisions

Background : Under the current provisions, ITC in respect to motor vehicles and other conveyances (vessel, aircraft etc.) was restricted on all kinds of motor vehicles irrespective of their seating capacity, except when they were used for specified purposes (e.g., further taxable supply of such vehicles, etc.). This restriction caused denial of ITC for vehicles, even though they were used for genuine business purposes.

Similarly, ITC is presently restricted on certain items (food etc.) even though in some cases it is mandatory under the law for an employer to provide the same to its employees.

Proposal : The GST Council has proposed to limit the restriction on ITC availability with respect to motor vehicles having seating capacity of up to 13 passengers (including driver). With this relaxation, the taxpayers shall be able to claim ITC on buses, minibus etc exceeding the specified seating capacity. (for example, a factory purchasing bus for transportation of staff/ workers etc.) subject to fulfillment of other applicable conditions.

For goods or services that an employer is under a legal obligation to supply to its employees, the GST Council has allowed the benefit of ITC. Accordingly, ITC can be claimed on expenses such as food for factory workers if the same is obligatory under the law. Enlargement of Composition Scheme With a view to provide relief to small taxpayers from GST compliances, it has been recommended by GST Council that the threshold for eligibility under the composition scheme applicable to supplier of goods be raised from INR 1 crore to INR 1.5 crores. At the same time, in order to make the composition scheme more practically workable it has been further recommended that the suppliers of goods would still be eligible to opt for composition if they provide services up to 10% of their turnover in the preceding financial year or INR 5 lakhs whichever is higher.

Reduction of Rates on Various Goods or Services Implementing the recommendations of the GST Council, rates on various goods and services have been reduced/ rationalized. Accordingly, prices of various consumer durable items such as television, washing machine, refrigerators etc. are being reduced (due to reduction in the rate from 28% to 18%). This measure is seen as major relief for end consumers. Apart from the above key recommendations primarily requiring amendments in the GST Acts, there are also important announcements concerning procedures, i.e., with respect to GST returns, registration etc. It was desirable that the amendment in GST law specially concerning taxability of HSS transaction, warehoused goods etc. are made retrospective. Nevertheless, the amendments would make the GST laws more certain, reduce the rigor of GST and reduce the cost of compliance burden for a large number of taxpayers, once they are implemented.

GST AND DOCUMENTATION FOR TRANSPORTATION OF GOODS BY ROAD

Transportation plays a vital role in bringing sustainable growth and development in the country as it primarily facilitates trade, exchange and travel which needs to move goods across the places. Undoubtedly the most popular mode of transportation in India is through road. Transportation of Goods through road is mainly done by Transport Agencies. As per the statistics of National Highways Authority of India, about 65% of freight and 80% of passenger traffic is carried by the roads. In the present article, we shall discuss provisions relating to Goods Transportation under GST law – the formalities, financial flows and inevitably, the tax structure related to the same.

Tax on Transportation Service

The levy of Service Tax on “Transportation of Goods by Road Service” has always been a contentious issue. The Finance Act, 1997 had levied Service Tax on Goods Transport Operators which was subsequently withdrawn in 1998 with effect from original date of levy. Thereafter, Service Tax was again imposed on Transportation of Goods by Road service rendered by a Goods Transport Agency (popularly known as GTA) by the Finance Act, 2004 with effect from 1st January 2005. The provisions related to reverse charge has always been associated with GTA Service, be it 1997 (Goods Transport Operator), 2005 (Goods Transport Agency), 2012 (Negative list concept) or 2017 (Goods and Services Tax – GST). The basic provisions prevailing under Service Tax have been continued under the GST regime with widened tax base.

What does GTA Mean?

The term “Goods Transport Agency” (GTA) has not been defined in the GST Laws, but has been defined by the way of explanation to Entry No. 9(iii) of Notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017, “*Goods Transport Agency means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called*”. In fact this definition has been copied from Section 65B (26) of the Finance Act, 1994 as applicable in Service Tax regime. So we can say that GTA is basically a person, who provides services in relation to transportation of goods by road and issues a consignment note.

How to Determine whether Services Received are From GTA?

Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA. As a corollary, the services provided by such individual transporters who do not issue a consignment note will be covered by the entry at s. no. 18 of notification no. 12/2017-Central Tax (Rate), and exempt from GST.

The definition of GTA as discussed in the aforesaid paragraph provides issue of consignment note as a pre-condition. Usually goods are handed over to GTA for which he issues receipt commonly known as consignment notes and undertakes to transport the goods to the consignee. It signifies that the lien on the goods has been transferred to the transporter and he is responsible for safe delivery of goods to the consignee.

In cases where GTA is not involved, usually transportation is undertaken by way of hiring of vehicle and hence lien on the goods is not created and the vehicle operator does not issue consignment note. This indicates the point that, while one might hire out vehicles for goods transport, but those issuing a consignment note (receipt of goods) are considered as a GTA.

Scope of Transportation Services

The significance of the term 'in relation to' in the definition of GTA has been clarified to include not only the actual transportation of goods, but any intermediate/ancillary service provided in relation to such transportation, like loading/unloading, packing/ unpacking, trans-shipment, temporary warehousing, etc, if these services are not provided as independent activities but as means for successful provision of GTA Service.

The Transportation of Goods may or may not be an isolated activity. The contract between the consignor and transporter will determine whether the scope of activity is restricted to GTA or includes aforesaid activities. If more than one activity is provided by transporter, including transportation of goods by road, then Section 8 ought to be pressed into service. The service provider ought to determine whether the service is a simplisitor GTA service or whether the service provided by him would be more aptly

classifiable under composite/ mixed supplies. It is important to analyse these activities minutely to find out whether activity can be considered as composite or mixed supply. GTA service covers other intermediate/ancillary services such as-

Loading/unloading

Packing/unpacking

Trans-shipment

Temporary warehousing etc.

Reverse Charge under GST

As per Section 9(1), tax shall be paid by the taxable person, as defined under Section 2(107) and collected in such manner as may be prescribed. However as per Section 9(3), tax shall be paid on reverse charge by the recipient of notified goods/services. Section 9(3) treats recipient as the person liable to pay tax. Reverse charge itself has been defined u/s 2(98) and includes tax payable under Section 9(3) and 9(4). Further recipient has been defined under Section 2(93) both in case of goods and services and also in case where consideration is payable and not payable respectively.

According to Section 9(3) of CGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient. In exercise of the power conferred by the said section, Notification No. 13/2017- Central Tax (Rate), dated 28th June 2017, was issued by the Government, to specify category of services covered under reverse charge, which inter alia notified the following categories of persons are liable to discharge the tax under Reverse Charge Mechanism for GTA services:

- a) any factory registered under or governed by the Factories Act, 1948; or
- b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or
- c) any co-operative society established by or under any law; or
- d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or
- e) anybody corporate established, by or under any law; or
- f) any partnership firm whether registered or not under any law including association of persons; or
- g) any casual taxable person;
located in the taxable territory.

Thus GST on GTA is liable to be paid on reverse charge only if service is provided to any of the aforesaid seven service recipients. Further condition is that the aforesaid service recipients ought to be located in taxable territory for Notification No.13/2017 Central Tax (R) to apply. Explanation (a) to the makes it abundantly clear that only the person who pays freight/ liable to pay freight located in taxable territory shall be treated as service recipient.

Thus if the person liable to pay freight/ person who pays freight is located outside taxable territory, then thought the service recipient fall under any of the seven categories, yet Notification No.13/2017 Central Tax (R) shall not apply. However there is an exemption in such cases, which has been discussed in the later parts of the article.

As per the above notification, the person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the receiver of service.



Payment is by Sender (Consignor)

If the sender of goods (consignor) pays to the GTA, then the sender will be treated as the recipient and he will pay GST on reverse charge basis.

Payment is by Receiver (Consignee)

If the liability of freight payment lies with the receiver (Consignee), then the receiver of goods will be treated as a receiver of transportation services and he will pay GST on reverse charge basis.

Payment by third person

It may so happen that goods are transported between agent and buyer, and freight is being paid by the principal, in this case, the principal is liable to pay GST.



Registration

Every supplier making taxable supply of goods or services needs to get registered under the GST law the address from where he effects supply. However, small businesses, making taxable supplies from state or union territory other than special category

States and having all India aggregate turnover below Rupees 20 lakh (10 lakh if business is in special category states) need not register. The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

However, in terms of powers conferred under Section 23(2) of the CGST Act, 2017, the Government may exempt from obtaining registration under this Act. Accordingly, in exercise of the powers conferred therein, the Government issued Notification No. 5/2017- Central Tax dated 19th June 2017, exempting a person who is engaged in making only supplies of taxable goods/services on which reverse charge applies from obtaining registration under GST.

Thus, a GTA does not have to register if he is exclusively engaged in rendering services to persons, who is liable under RCM as the recipient of supply, even if the turnover of GTA exceeds the threshold limit of ` 20 lakh/10 lakh.

It is to be noted that the transporters have to mandatorily enrol on the e-way bill portal to get their 15 digit unique transporters ID, irrespective of the fact whether they are registered or not with GST Authorities. The transporter ID is known as TRANSIN.

Scheme of payment of Tax

Under the GST regime, there are two options available to GTA to discharge his GST liability. The GTA can either opt for non-ITC route or for ITC route. However once the GTA has opted to avail ITC, he cannot opt back to non-ITC scheme due to specific condition inserted in rate Notification No.11/17 CT (R) by Notification No.20/2017 Central Tax (R)

A. Scheme Non ITC

Under this scheme the GST @ 5% (Central+State/Integrated) shall be paid by the person who is availing the service of GTA under reverse charge mechanism and there is no tax liability on GTA. This route is very convenient to GTA but no input tax credit is available to GTA on the inward supplies.

B. Scheme ITC

Under this scheme, the GTA shall charge GST @ 12% (Central+State/ Integrated) on supplies made by him under forward charge. In such a case GTA has to charge GST of 12% in his invoice, collect GST from the service recipients and thereafter remit to the government exchequer. The service recipient can avail the GST paid on GTA service subject to provisions to Section 16 and 17 of the CGST/ SGST Act. One should always bear in mind that where tax is paid without ITC, the cost of providing service will always be higher than with ITC.

It is pertinent to note that, the person availing the service is always eligible for ITC irrespective of whether tax is paid by him @12% or GTA @ 5%, irrespective of rate of tax on the services. Moreover, wherever tax is paid under RCM, for supplier of service it is considered as exempt supply. In case GTA also provides other services in addition to GTA, then ITC reversals under Rule 42 or 43 of CGST/SGST Rules have to be borne in mind by GTA.

Exemptions under GST

A. Based on the Service Provider

The services by persons other than GTA/Courier Agency for transportation of goods by road are exempt as per entry No. 18 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017, services by way of transportation of goods

a) by road except the services of-

- (i) a goods transportation agency;
- (ii) a courier agency;

b) by inland waterways, are exempted.

Earlier, in Service Tax, this exemption was provided by way of entry in the negative list.

B. Based on the Service Receiver

In service tax regime and until exemption has been provided, GTA were liable to pay tax on the services provided to persons other than those covered under reverse charge. As per the below mention exemption, if services are provided to persons other than those covered under RCM as discussed earlier, GTA shall be exempted from payment of tax.

Notification No. 32/2017-Central Tax (Rate), dated 13th October 2017, exempts services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the person liable under reverse charge mechanism.

C. Based on the goods transported

Exemption based on nature of goods transported has been provided in entry no. 21 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017. As per the said entry, GST will not be payable if transportation of following goods takes place via GTA –

- a) agricultural produce;
- d) milk, salt and food grain including flour, pulses and rice;

- e) organic manure;
- f)) newspaper or magazines registered with the Registrar of Newspapers;
- g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- h) defence or military equipments.

Earlier, in Service Tax, this exemption was provided by way of entry in the mega exemption notification.

D. Based on Origin/destination

Exemption has been provided to supply of services associated with transit cargo for material transportation to landlocked countries i.e. Nepal or Bhutan. The exemption has been provided by Notification No. 30/2017- Central Tax (Rate) dated 29th September 2017.

E. Based on nature of service

Exemption has been provided, to persons supplying a means of transportation of goods, to a goods transport agency on hire, vide entry No. 22 to Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017.

Earlier, in Service Tax, this exemption was provided by way of entry in the mega exemption notification.

F. Based on value

Exemption based on value of transportation service has been provided in entry no. 21 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017, GST will not be payable if transportation of following goods takes place via GTA –

- b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;
- c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;

Earlier, in Service Tax, this exemption was provided by way of entry in the mega exemption notification.

Place of Supply of GTA under GST

Determination of place of supply is not only important to find out whether the services of GTA are in the nature of intra-state or inter-state supply. It is important to find out whether it can be considered as zero rated supply. The location of supplier and place of supply has to be considered to determine place of supply.

Location of supplier has been defined in IGST act as follows:

- If supply is made from a registered place of business, the location of such place of business;
- If supply is made from a place other than the registered place of business (a fixed establishment elsewhere), the location of such fixed establishment;
- If supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply;
- In other cases, the location of the usual place of residence of the supplier.

A Mirror provision exists for location of service recipient.

Section 12(8) of IGST Act determines the Place of Supply of GTA service in case the GTA and service recipient are located in India. As per Section 12(8), if the GTA and the services recipient are located in India, then the place of supply of services shall be as follows:

- (a) a registered person, shall be the location of such person.
- (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation. (However, services to unregistered persons is now exempt)

Section 13(9) of IGST Act determines the Place of Supply (POS) in case either the GTA/ service recipient are located outside India. As per Section 13(9), POS shall be the place of destination of such goods.

Documentation

With the introduction of e-Way Bill (EWB) under GST, every person who effects movement of goods shall generate an e-Way Bill covering the said goods. Prior to GST, there was no concept of e-Way Bill under Central Excise while various VAT laws had prescribed similar document as an additional document for transportation of goods. Since it is an important provision introduced under GST, it is necessary for all consignors/consignees/ transporters to be aware of the required compliance and the obligations imposed.

The person in charge of the vehicle should carry Invoice, bill of supply, delivery challan as applicable and a copy of the e-way bill in physical form or the e-way bill number in electronic form or e-way bill number written on invoice/bill of supply/ delivery challan. However, the Commissioner may, by notification, require the transporters to carry an invoice, bill of

supply or bill of entry or a Delivery Challan, where the goods are transported for reasons other than by way of supply instead of an e-way bill, if the circumstances so warrant. Here we like to discuss in brief about documents individually.

1. Tax Invoice

A Tax Invoice must be issued for every taxable supply containing information like item or service descriptions, quantities, date, prices and discounts, if any. It also includes the total value and the tax charged on the supply. A Tax Invoice is required to provide confirmation or evidence that a supply of goods took place. It is also necessary so that the recipient is eligible to claim ITC.

2. Bill of Supply

Bill of Supply is a document to be issued by a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 of CGST Act, 2017 i.e. composition scheme.

3. Delivery Challan

Delivery challan can be issued for transportation of goods without an invoice or bill of supply, in the following instances:

- Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known.
- Transportation of goods for job work.
- Transportation of goods for reasons other than by way of supply.
- Other supplies as notified by the Board.

When goods have been transported using a delivery challan, the supplier is required to issue a tax invoice on delivery of goods as per time prescribed by law. The delivery challan should be issued in accordance with rules of the Act.

4. Consignment Note

A consignment note is a document issued by a goods transportation agency against the receipt of goods for the purpose of transporting the goods by road in a goods carriage. If a consignment note is issued, it indicates that the lien on the goods has been transferred (to the transporter) and the transporter becomes responsible for the goods. The word “consignment note” is not defined in the Act.

However, as per Rule 54(3) of CGST Rules, 2017, where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the following particulars in addition to other information as mentioned under rule 46 of CGST Rules, 2017:

- a) The gross weight of the consignment
- b) Name of the consigner and the consignee
- c) Registration number of goods carriage in which the goods are transported
- d) Details of goods transported
- e) Details of place of origin and destination
- f)) Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency

5. E-way bill

E-way bill is a mechanism to ensure that goods being transported after providing requisite information to the authority and is an effective tool to track movement of goods and check tax evasion. The provisions related to e-way bill are contained in Section 68 of the CGST Act, 2017. As per the said section, the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed. E-way bill also needs to be generated by a registered supply due to inward supply from an unregistered person.

When an e-way bill is generated a unique e-way bill Number (EBN) is allotted which will be the point of reference for verification and establishing the genuineness of the movement of goods and the information so generated will be available to all the three parties involved in the supply chain i.e., the supplier, recipient, and the transporter.

A. Generation of e-way bill

The generation of EWB-01 is the liability of registered person, who causes movement of goods, if suppliers fails to generate EWB then it is liability will be upon recipient of goods. This indicates/ concludes generally liability to generate EWB by GTA is secondary. **However, if both supplier and recipient fail to generate EWB, then it is the transporter's responsibility to generate this for hassle-free movement of goods.** Also, on an authorisation from a registered person, the transporter may generate the same, electronically on the common portal along with such other information. Although updation of Part B is responsibility of transporter.

Further, there can be few circumstances where transporter will have to generate EWB/update of Part B. Some of the circumstances are discussed below:

Case 1. If vehicle breaks down during transit, then the transporter can cause to repair the vehicle and continue the journey. If he has to change the vehicle, then he has to enter the new vehicle details for that EWB on the web-site using 'Update vehicle number' option and continue the journey with new vehicle.

Case 2. If the goods having e-way bill has to pass through transshipment and through different vehicles. Some of the consignments are transported by the transporter through transshipment before it is delivered to the recipient at the place of destination. Hence for each movement from one place to another, the transporter needs to update the vehicle number in which he is transporting that consignment.

Case 3. There are chances that consignee refuses to take delivery of goods or rejects the goods for quality reason or for any other reasons. Under such circumstance, the transporter can get one more e-way bill generated with the help of supplier or recipient by indicating supply as 'Sales Return' and with relevant document details and return the goods to supplier as per his agreement with him.

B. Consolidated E-way bill

Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance. Thus, the transporter carrying multiple consignments of various consignors and consignee in one vehicle can generate and carry one consolidated e-way bill in form EWB-02, instead of carrying multiple e-way bills. The consolidated e-way bill can have the goods or e-way bills which will be delivered to multiple locations as per the individual EWB included in the consolidated EWB.

C. Uploading information regarding detention of vehicle

Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.

D. Revalidation of e-way bill

An e-way bill is valid for periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date and time of generation of e-way bill.

Type of conveyance	Distance	Validity of EWB
Other than Over dimensional cargo	Less Than 100 Kms	1 Day
	For every additional 100 Kms or part thereof	additional 1 Day
For Over dimensional cargo	Less Than 20 Kms	1 Day
	For every additional 20 Kms or part thereof	additional 1 Day

Validity on 1 day is not 24 hours, it will end at midnight (00.00 hour) of the next day. Validity of e-way bill can be extended by the generator of such e-way bill or transporter either four hours before the expiry or within four hours after the expiry of e-way bill.

A. Road Transportation other than GTA

a. Own vehicle

Even in the cases where the buyer/supplier uses its own vehicle to deliver/carry the goods they are required to generate e-way bill. The e-way bill is mandatory in both cases whether buyer or supplier uses own vehicle. The buyer/supplier must enter the vehicle number of their own vehicle say truck, tempo, car or three wheeler in Part B.

b. Hired vehicle

Even in the cases where the buyer/supplier uses hired vehicle to deliver/carry the goods they are required to generate e-way bill. The buyer/supplier must enter the vehicle number of the hired vehicle say Truck, tempo even cab in Part B.

c. Public conveyance

The responsibility of e-way bill generation of under this mode of transportation will be of consignor or consignee. The buyer/supplier must enter the vehicle number of the public conveyance say Bus in Part B.

Conclusion

In this write-up we tried to cover every provisions relating to Transportation of Goods by Road under GST, although at some places we referred section and/or rules to facilitate reader to go through the provisions in detail by referring the same. Thanks for reading.

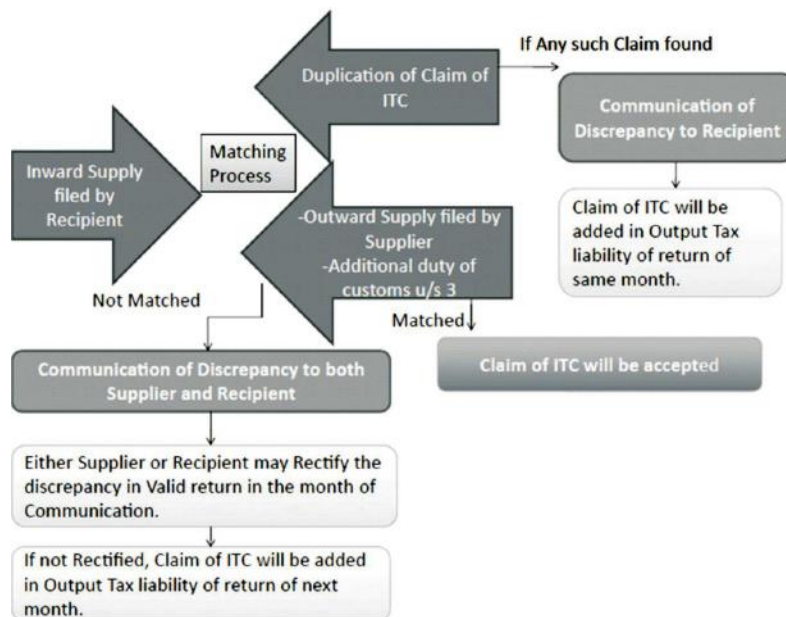
SIMPLIFIED PROPOSED GST RETURNS - VER 2.0 ARE THEY ACTUALLY SIMPLE?

Returns under GST have undergone a lot of turmoil. GSTera started with a big bang of compliance- based law and complete Transparency System. However, one of the biggest challenges of GST Implementation was filing of returns online. When GSTR 2 was introduced the return filing mechanism completely failed and since then only GSTR 1 and GSTR 3B are filed. There were lot of apprehensions from the industry too in complying with the GSTR 2, especially marking the invoices as accepted, selecting the amount of credit to be claimed and reporting of HSN, classification of purchases between Input, Input Service, Capital Goods etc. Read on...

The submission and processing of return is an important link between the taxpayer and tax administration as it is an important tool for:

- (i) Compliance verification program of tax administration;
- (ii) Providing necessary inputs for taking policy decision;
- (iii) Management of audit and anti-evasion programs of tax administration;
- (iv) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation.

Since the entire chain of reporting is not complete, we can say the compliance is not 100% complete. The *prima facie* model of filing of GST return was based on matching concept whereby the outward supplies uploaded by supplier will be matching with corresponding claim of ITC on account of inward supplies by the recipient. In case the is matched, the claim of ITC is accepted else the claim of ITC will be added in output liability of the recipient in the return of next tax period along with requisite interest or penalty.



The government made a committee for simplifying return processes who have submitted their report to GST Council. GST Council in its 27th meeting held on 4th May 2018 had approved the basic principles of GST return design. Now in its 28th meeting held on 21st July 2018, GST Council approved the key features and new format of the GST returns. This is placed in the Public Domain for feedback upto 31st August 2018.

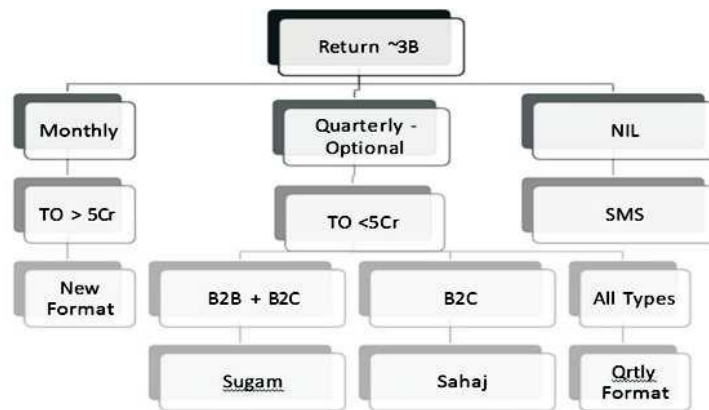
We hereby analyse the above process to understand that are these returns will actually give much needed relief to the trade and Industry.

A.Key Features of Proposed Return Process

The key features of the proposed return process are discussed below;

1. Consolidation of Returns:

All 3 returns (Outward, Inward, Monthly) has been now condensed to one return with outward and Inward as an annexure to furnish. Currently small taxpayer file quarterly returns, the same is continued and the limit of small taxpayer is now revised to 5 crores. The turnover will be calculated based on the reported turnover in the last year i.e. 2017-18, annualized for the full year. The following table will explain the new Returns.



A questionnaire would be made available to show only relevant fields based on the transaction applicability, to ensure the returns look crisp and only limited tables for data entry.

1. Uploading of Outward Supply Annexure :

Supplier would be given a facility to upload the Invoices on continuous basis. Invoices uploaded till the date of returns would automatically be updated as liability in the monthly/quarterly returns. However, for the Recipient, Invoices uploaded till 10th would be made available as Input credit for that Period Return.

2. Due Date for filing :

Return filing dates shall be staggered based on the turnover of the taxpayer. The due date for filing of return by a large taxpayer shall be 20th of the next month.

3. Filing of Nil Return by SMS :

Taxpayers who have no purchases, no output tax liability and no input tax credit to avail in any quarter of the financial year shall file one NIL return for the entire quarter. In month one and two of the quarter, such taxpayer shall report NIL transaction by sending a SMS. Facility for filing quarterly return shall also be available by an SMS. There is no clarity whether filing of Nil return facility by SMS will be applicable for registered person availing option of Monthly return.

4. Payment of tax :

for quarterly return filers, there has been an additional monthly form issued for discharging the tax liability on self-declaration basis of turnover and gross liability, ITC and net liability. The benefit of this simplification would be that the compliance cost for small taxpayers would come down as payment declaration form is not a return and minor errors in the same would not lead to initiation of any legal action. IF there are any Invoices uploaded as mentioned above the same shall be considered for minimum gross liability. It needs to be assessed whether this simplification would add any additional burden to small tax payers.

B. Matching Process in Proposed GST Return Formats

- 1. Invoice Locking :** By now we all know under GST the documents are uni-directions, it needs to be filed by supplier only. As and when the supplier updates the invoice, the same is available to recipient in real time basis. Supplier can edit if it's not locked / accepted. Recipient can exclusively select the invoice and mark as accepted. Owing to large transactions recipient can proceed to file the returns without explicitly marking them as accepted. In that situation, the invoices would be marked as deemed accepted and locked.
- 2. Unlocking of Invoice:** If there needs to be a correction in the Invoice, the same can be unlocked by the recipient for a correction by the supplier. The moment invoice is unlocked, corresponding credit would be forgone at the recipient end, the same can be availed once the edited invoice is again accepted by the recipient.
- 3. Invoice uploaded but return not filed:** In cases where no return is filed after uploading of the invoices by the supplier, it shall be treated as self-admitted liability by the supplier and recovery proceedings shall be initiated against him after allowing for a reasonable time for filing of the return and payment of tax.
- 4. Missing Credits:** A six month transitional window would be provided to account for invoices or debit notes which have not been uploaded by the supplier and on which recipient choose to avail input. credit taken hereby is called as “missing invoices”. The credit availed would be provisionally considered for a period of two months within which supplier has to upload the invoices, in case that doesn't happen, this credit shall lapse, and recipient must declare invoice wise supplier wise defaults.

An IT tool would be provided for downloading of invoices in Excel format and reconciling with books of accounts to assess missing invoices.

5. ITC Credit Process: The following chart explains the process of ITC Business Flow

C. Preparation of Monthly Return

The main return shall have two main tables,

- 1) Table 3: reporting supplies on which tax liability arises and
- 2) Table 4: for availing input tax credit.

These tables are similar to that of Current 3B format. Taxes are discharged using Table 7 Payment of Taxes. The other details like amount of Interest and late fee due to late filing of return (including late reporting of invoices of previous tax periods) will be auto-computed by the system. However, interest on account of reversal of ITC or late reporting of reverse charge supplies will be calculated by the tax payer.

One of the new feature which is added in the return is period wise reporting of tax liabilities. Liability in the return arising out of invoices of different dates shall be summarized period wise. However, one payment for the total tax liability on all tax invoices shall be allowed to be made. For example, a missing invoice of April if needed reporting in September, would be reported in the regular return of September. However, the liability for the month of September and April shall be shown separately on the common portal to the taxpayer in the regular return of September but one consolidated payment would be required to be made. Interest shall be calculated on invoices reported late i.e. in the present example on the invoice of April. After filing of the return, information relating to April invoice shall be clubbed with the information relating to April information.

In case of refund claimed from Electronic Cash ledger, the same can be undertaken from Monthly return. The above feature will become operational in Proposed return format. Currently tax payer need to file separate application for the same.

Return shall have following annexures;

1. Details of outward supplies, imports and inward supplies attracting reverse charge.

The Invoices of outward Supply can be continuously uploaded by supplier. These invoices will get auto- populated in this annexure. The following is the summary of Liability Table 3

- ☐ 3A. Supplies made to consumers and un- registered persons (Net of debit notes, credit notes)
- ☐ 3B. Supplies made to registered persons (other than those attracting reverse charge)
- ☐ 3C. Exports with payment of tax
- ☐ 3D. Exports without payment of tax
- ☐ 3E. Supplies to SEZ units/developers with payment of tax
- ☐ 3F. Supplies to SEZ units/developers without payment of tax
- ☐ 3G. Deemed exports
- ☐ 3H. Inward supplies attracting reverse charge (to be reported by recipient, GSTIN wise, net of debit notes and credit notes)
- ☐ 3I. Import of services
- ☐ 3J. Import of goods ☐
- ☐ 3K. Import of goods from SEZ units on a Bill of Entry ☐
- ☐ 3L. Missing invoices on which credit has been claimed in (T-2) tax period and supplier has not reported the same till filing of return for the current tax period

Only for reporting but NOT liability calculation

Table 4: Details of sales made through ecommerce operator

Table 5: HSN wise summary of inward supplies and that of outward supplies declared in table 3 (four digits or more)

Some important points to note in the above statement are;

- ü Reverse charge outward supplies will be reported only by recipient and not by supplier. Such supplies shall be reported GSTIN wise (wherever applicable) and net of credit and debit notes.
- ü HSN code for services shall be reported at six- digit level or more irrespective of the turnover during the preceding financial year.

- ü For reporting issue of credit / debit notes due to difference in the tax rate only without affecting the taxable value; only tax amount has to be reported and taxable value of the credit or debit note will be reported as 'zero.'
- ü Value of supplies and amount of tax may be reported in whole number or upto two decimal points at the most.
- ü All supplies specified in Schedule III shall be reported under 'No supply' in the main return. It will include high sea sale and bonded warehouse sale also.

It implies that GSTR-1 which is currently required to file till 10th of the following month will be scrapped out and the details of outward supply will form the annexure and will be required to be filed by the due date as prescribed for filing the monthly return.

2. Annexure of Inward Supplies

This will be auto drafted annexure based on annexure of outward supplies by various vendors of registered person, GSTR-5 and GSTR-6 filed by corresponding suppliers including ISD Credits.

D. Amendment of Return

The proposed return scheme also allows amendment of return through a separate return. Amendment return is different than a regular return. There would be a facility to file two amendment returns for each tax period within the time period specified in Section 39(9) of the CGST Act, 2017. Amendment of entries which flow from the annexure of the main return shall be allowed only with the amendment of the details filed in the annexure-3. Amendment return can be filed before the due date for furnishing of return for the month of September following the end of the financial year or the actual date of furnishing relevant annual return, whichever is earlier.

The amendment can be on account of following two issues;

- I. Amendment of missing invoices : Amendment of missing invoices reported later by the supplier shall be carried out through the amendment return of the relevant tax period to which the invoice pertains. Therefore, it would be advisable to report all the invoices and then avail the facility for amending return so that invoices reported late can also be amended through the amendment return. For example, Invoice of April if uploaded in September shall get amended with the amendment of return for the month of April only and therefore trade is advised to report all the missing invoices before exhausting their opportunity to amend the return.
- II. Amendment of details other than that of invoice : All user entries of input tax credit table in the main return would be allowed to be amended. This is necessary as amendment of subsequent returns should not be necessary with respect to the input tax credit table to keep the compliance load under control. Change in the closing balance of the input tax credit shall be affected based on the declaration in the amendment return of the taxpayer. Thus, the opening and closing balances of intervening month(s) shall not get impacted.

No Amendment in certain cases

It may also be noted that invoices on which credit has been availed by the recipient (i.e. locked invoices) will not be allowed to be amended by the supplier. There are two options in this case;

1. The supplier may ask the recipient to unlock the invoice along with corresponding ITC reversal and Online confirmation. Post which Supplier may amend the invoice which can again be locked by Recipient and claim ITC on the same.
2. A credit or a debit note will have to be issued by the supplier.

Payment of Liability in Amendment Return

Payment would be allowed to be made through the amendment return as it will help save interest liability for the taxpayer. Input tax credit, if available in the electronic credit ledger can also be used for payment of the liability in the amendment return. Negative liability arising from the amendment return shall be carried forward as negative liability in the regular return of the next tax period. For change in liability of more than 10% through an amendment return, a higher late fee may be prescribed to ensure that reporting is appropriate in the regular return.

Conclusion

By now we can draw a reasonable conclusion that new Returns are combination of GSTR 1,2,3,3B + Resolution of problems faced while filing GSTR 2. In other words, we can say Old Wine in a NEW Bottle. Only time can test the success and failure of this format and the readiness of the Industry in accepting the same and adopting their books of accounts for tuning to the new formats. The question remains in the readers mind whether IT System support processing of the same or would continue midnight oil burning for filing the returns.

GSTN to also clarify certain operational issues in implementing the same and the Online GSTN Portal visibility; Availability of offline and proposed IT tools. We only wish a successful implementation and early warning information to Taxpayer for making their IT Systems ready for GST Returns Ver 2.0.

STATUTORY COMPLIANCE DUE DATE CALENDAR- NOVEMBER 2018

The business entity such as Proprietary Concerns/Partnership Firms/ LLP/ AOP/HUF/ Companies, etc. has to follow various statutory compliances monthly/quarterly/half-yearly/annually, as the case may be.

For the benefit of all and timely compliances related to various laws applicable to be followed for the November, 2018 month (October 2018 Commitments) are listed below:

Due Date	Category	Description
07-11-2018	Income Tax	Due date for deposit of Tax deducted/collected for the month of October, 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.
11-11-2018	GST	Monthly return for registered persons with aggregate turnover of more than Rs.1.50 crores for the month of October 2018 (GSTR-1).
14-11-2018	Income Tax	Due date for issue of TDS Certificate for tax deducted under section 194-IA/194-IB in the month of September, 2018.
15-11-2018	Income Tax	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2018.
15-11-2018	Income Tax	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of October, 2018 has been paid without the production of a challan.
15-11-2018	Provident Fund	Monthly PF payment for October 2018.
15-11-2018	ESIC	ESIC payment for the month of October 2018.
21-11-2018	GST	GST monthly return for the month of October 2018 (GSTR 3B).
25-11-2018	Provident Fund (includes EDLI)	PF Return filing for October 2018 (including pension and insurance scheme forms).
29-11-2018	Company Law	Form MGT -7 for filing of Annual Return (60 days from the conclusion of AGM).
30-11-2018	Income Tax	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA/194-IB in the month of October, 2018
30-11-2018	Income Tax	Annual return of income for the assessment year 2018-19 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)
30-11-2018	Income Tax	Audit report under section 44AB for the assessment year 2018-19 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
30-11-2018	Income Tax	Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction
30-11-2018	Income Tax	Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2017-18
30-11-2018	Income Tax	Country-By-Country Report in Form No. 3CEAD by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2016-17.
30-11-2018	Income Tax	Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during 2017-18
30-11-2018	Income Tax	Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2017-18) to units holders

Due Date	Category	Description
30-11-2018	Income Tax	Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB
30-11-2018	Income Tax	Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2017-18. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A.
30-11-2018	Income Tax	Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager.
30-11-2018	Income Tax	Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on November 30, 2018)
30-11-2018	Income Tax	Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(2) (if the assessee is required to submit return of income on November 30, 2018)
30-11-2018	Income Tax	Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company has any international/specified domestic transaction]
30-11-2018	Income Tax	Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is November 30, 2018)
30-11-2018	Income Tax	Due date for claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2017-18 and of foreign tax deducted or paid on such income in Form no. 67. (if due date of submission of return of income is November 30, 2018).



General Circular No. 10/2018

F.No. 0U34I2013 CL-V
Government of India
Ministry of Corporate Affairs

5h Floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi-1
Dated: 29.10.2018

To
All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Subject : Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013-- reg.

Sir,

Keeping in view the requests received from various stakeholders seeking extension of time for filing of financial statements **for the financial year ended 31.03.2018** on account of various factors, it has been decided to relax the additional fees payable by companies on e-forms AOC-4, AOC (CFS) AOC-4 XBRL and e- Form MGT-7 **upto 31.12.2018'** wherever additional fee is applicable. 2. This issues with the approval of the competent authority.

2. This issues with the approval of the competent authority.

Yours faithfully,

(KMS Narayanan)
Assistant Director (policy)
011-23387263

Copy forwarded for information to : 1. E-Governance section.



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