

GST Update

Weekly Update
06.10.2018

Background

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 29.09.2018. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

- 1 CGST Circular clarifying entitlement of refund of compensation cess to UN entities issued.
- 1 Central Excise Circular issued for giving effect to online registration, filing and processing of claims under the Budgetary scheme for units under area based exemptions in Central Excise

UN Entities entitled for refund of Compensation Cess

- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-No-68.pdf;jsessionid=51D59B2CD5ABAE6720D963AA578A17D>
- 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

Budgetary support scheme for erstwhile area based exemptions

- <http://www.cbic.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2018/circ1067-2018cx.pdf;jsessionid=D0524CE8CED84572234EF5BAAE90A976>
- Online registration and filing of claims by eligible units for disbursal of budgetary support under GST regime, located in states of J&K, Uttarakhand, HP and North East incl Sikkim

Budgetary support scheme for erstwhile area based exemptions(Contd)

- Three Phases
 - i. Online Registration of the unit under the scheme
 - ii. Online filing of applications by registered units for budgetary support
 - iii. Upload of inspection report and integration with PFMS for electronic disbursement of sanctioned budgetary support to the bank account of assesseees.
- Phase i and ii are completed. Phase iii likely to be completed by November, 2018
- All claims from September onwards to be filed online

Budgetary support scheme for erstwhile area based exemptions(Contd)

- Units registered manually need to file fresh application for online registration on ACES-GST Portal
- No further verification required; No further documents; Process to be completed by 15th October, 2018
- Registered taxpayers can get their login credentials on the CBEC GST Portal www.cbec-gst.gov.in
- User Manual for the scheme is also uploaded on the above portal under “What’s new” and “Services”



GST PORTAL UPDATES

- **Filing of refund for multiple tax period in Four types of cases & upload of prescribed statements**
- Taxpayers filing following refund applications, has now been provided with facility to apply for refund for multiple tax period and upload statements, as mentioned below:
 - Export of services with payment of tax (AF 02) with Statement 1
 - ITC accumulated due to Inverted duty structure (AF 05) with Statement 2
 - On account of supplies made to SEZ (Unit and Developer) with payment of IGST (AF 06) with Statement 4
 - Recipient/Supplier of deemed export(AF 08) with Statement 5B

APIs for these functionalities have also been released for CBIC and Model I States.

New Functionality

- **Demands & Recovery- Form GST DRC-20**
- Application for payment of dues in instalments has been enabled on the GST Portal for the Taxpayers.
- *(Refer Section 80 of the CGST Act, 2017 & Rule 158(1) of the CGST Rules, 2017)*



GOODS AND SERVICES TAX NETWORK

Form GSTR-7 and GSTR-7A is now available on GST Portal

Form GSTR-7, Return for Tax Deducted at Source, which is to be filed by the Tax Deductors and Form GSTR-7A (Tax Deduction at Source Certificate) has been made available on GST portal to the Taxpayers.

(Refer Rule 66(1) and Rule 66(3) of CGST Rules, 2017)



GST LEGAL UPDATES

Constitutional validity of GST Compensation Cess upheld by SC

- Case of Union of India Vs Mohit Minerals reported in 2018-TIOL-05-SC-GST
- Issue in brief
- Challenge to constitutional validity of GST Compensation Cess.
- **Decision of Supreme Court.**
- The SC held that when Constitution provision empowers the Parliament to provide for Compensation to the States for loss of revenue by law , the expression "law" used therein is of wide import which includes levy of any cess - The Compensation to States Act, 2017 is not beyond the legislative competence of the Parliament -The Compensation to States Act, 2017 does not violate Constitution (One Hundred and First Amendment) Act, 2016 nor is against the objective of Constitution (One Hundred and First Amendment) Act, 2016. It also held that the the Compensation to States Act is not a colourable legislation

Constitutional validity of GST Compensation Cess upheld by SC

- Principle is well settled that two taxes/imposts which are separate and distinct imposts and on two different aspects of a transaction are permissible as "in law there is no overlapping. Levy of Compensation to States Cess is an increment to goods and services tax which is permissible in law - Clean Energy Cess and States Compensation Cess are entirely different from each other, payment of Clean Energy Cess was for different purpose and has no bearing or connection with States Compensation Cess - Giving credit or set off in the payment is legislative policy which had to be reflected in the legislative scheme - Compensation to States Act, 2017 or Rules framed thereunder does not indicate giving of any credit or set off of the Clean Energy Cess already paid till 30.06.2017 - The petitioner is, therefore, not entitled for any set off of payments made towards Clean Energy Cess in payment of Compensation to States Cess.

Time Limit contained in Rule 117 of CGSTs Rules not Ultra Vires

- Case of Willowood Chemicals Pvt Ltd Vs UoI reported in 2018-TIOL-133-HC-AHM-GST
- Issue in brief
- Challenge to vires of Rule 117 of CGST rules
- **Decision of High Court.**
- Merely because the rule in question prescribes a time frame for making a declaration, such provision cannot necessarily be held to be directory in nature - Time-limit provisions contained in sub-rule (1) of rule 117 of the CGST Rules is not ultra vires the Act or the powers of the rule making authority - time limit provisions cannot be seen as merely technical in nature - When the entire tax structure of the country is being shifted from earlier framework to a new one, there has to be a degree of finality on claims, credits, transfers of such credits and all issues related thereto - such prescription of time limit cannot be stated to be either unreasonable or arbitrary.

Time Limit contained in Rule 117 of CGSTs Rules not Ultra Vires

- Case of Willowood Chemicals Pvt Ltd Vs UoI reported in 2018-TIOL-133-HC-AHM-GST
- **Decision of High Court.** (Contd...)
- The HC further held that interpreting such powers as merely directory would give rise to unending claims of transfer of credit of tax on inputs and such other claims from old to the new regime - Doing away with the time limit for making declarations would give rise to multiple large-scale claims trickling in for years together, after the new tax structure is put in place and would, besides making the task of matching of the credits impractical, if not impossible, also impact the revenue collection estimates - anhilating time limit contained in rule 117 would have serious repercussions - Removing such time limit would have a potential to lead to utter economic chaos

Any ISSUES/ queries?

- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
 - 1800 1200 232
 - cbecmitra.helpdesk@icegate.gov.in
- GSTN Help Desk
 - <https://selfservice.gstsystem.in/> - Grievance redressal portal
 - Help Desk Number: 0120-4888999

Any ISSUES/ queries?

- Twitter Handles
- For General Questions
- https://twitter.com/askGST_GoI
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU