

GST Update

Weekly Update
19.01.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 12.01.2019. 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

Notifications and Circulars



- One Central Tax notification issued
- One Central Excise circular issued
- Two PIB press releases issued

Advance Authorisation



- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-01-central-tax-english-2019.pdf;jsessionid=6ACE678DD6099C70FECE600127291920>
- Notification No. 1/2019-Central Tax dated 15th January, 2019
- Notification No. 48/2017-Central Tax which notifies certain supplies as deemed supplies amended;
- Following Proviso inserted for supplies against AA scheme
- *Provided that goods so supplied, when exports have already been made after availing input tax credit on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply*

Advance Authorisation (Contd)

- *Provided further that no such certificate shall be required if input tax credit has not been availed on inputs used in manufacture of export goods*
- Thus, supplies against AA scheme can not be used in manufacture and supply of nil rated or fully exempted supplies
- Definition of Advance authorisation in the notification amended by removing the condition of “*pre-import basis*”

GoM on issues relating to lottery

- <http://gstcouncil.gov.in/sites/default/files/press-release/GoM-relating-to-lottery.pdf>
- Group of Ministers (GoM) constituted on issues relating to lottery
- **The Terms of Reference (ToR) for the GoM for lottery shall be as follows:**
- Whether the disparity in tax structure on the same product/commodity be continued or a uniform rate be prescribed for both;
- Whether private persons authorized by the States are misusing the lower rate and getting enriched themselves at the cost of the State and suggest measures to curb it;
- Examine any other issue related to enforcement including the legal frame work, so as to prevent evasion of tax on lottery and suggest appropriate tax rate to address the problem;

GoM on issues relating to lottery (Contd)

- The GoM on issues relating to lottery shall be assisted by a Committee of officers from the Centre and the States as convened by the GoM
- Secretary of the GoM on issues relating to lottery shall be Shri Manish Sinha, Joint Secretary (TRU-II), CBIC
- The GoM for lottery shall submit its report to GST Council in next Meeting for consideration of the GST Council

GoM for Real Estate Sector

- <http://gstcouncil.gov.in/sites/default/files/press-release/GOM-for-boosting-the-Real-Estate-Sector.pdf>
- 7-Member Group of Ministers (GoM) constituted for boosting the Real Estate Sector under the GST regime by providing a Composition Scheme for Residential Construction Units among others
- **The Terms of Reference (ToR) for the GoM for boosting Real Estate Sector under GST regime shall be as follows:**
- Analyse tax rate of GST, including inter-alia issues/challenges in view of proposal for boosting the Real Estate Sector under GST regime by providing a Composition Scheme for Residential Construction Units

- **The Terms of Reference (ToR) for the GoM for boosting Real Estate Sector under GST regime :**
- Examine and suggest ways for Composition Scheme or any other Scheme, for boosting Real Estate Sector and suggest Scheme for Transition vis-a-vis introduction of suggested Scheme;
- Examine various aspect of levy of GST on Transfer of Development Rights (TDR) and Development Rights in a joint Development Agreement and suitable model;
- Examine legality of inclusion/exclusion of land or any other ingredient, in Composition and suggest Valuation Mechanism; V. Examine and suggest any other aspect relevant to boost Real Estate Sector, which may be brought to the notice of GoM.

- **The Terms of Reference (ToR) for the GoM for boosting Real Estate Sector under GST regime :**
- The GoM for boosting Real Estate Sector under GST regime may invite officers from the Centre and the States, as may be required. The Conveners of Law Committee and Fitment Committee will assist the GoM.
- The Secretary for the GoM for boosting the Real Estate Sector under GST regime shall be Shri Manish Sinha, Joint Secretary (TRU-II), CBIC.

Budgetary support for states in lieu of area based exemptions

- <http://www.cbic.gov.in/resources//htdocs-cbec/excise/cx-circulars/cx-circulars-2019/Circular1068-2019-CX.pdf>
- Circular No. 1068/1/2019-CX dated 10.01.2019
- Review of progress of implementation of the scheme
- **Provision of Appeal**
 - The support under the scheme is in the nature of grant and not refund of duty under taxation law. As such there is no requirement for any appellate forum as the decision of the sanctioning authority is final

Budgetary support for states in lieu of area based exemptions (Contd)

- **Review of progress of implementation of the scheme**
- **Requirement of pre-audit or post audit for the budgetary amount sanctioned**
 - The payments are not tax refunds but budgetary support
 - There is no requirement of audit by departmental officers
 - As such payments will be liable to be audited by CAG office
- **Verification in respect of multi-locational units:**
 - Central tax officer having jurisdiction over pr place of business shall sanction the claim and such officer is the jurisdictional officer. He may take inuts from other jurisdictions, if necessary

Budgetary support for states in lieu of area based exemptions (Contd)

- **Time limit for disposal of the claim by the eligible units:**
 - The claims should be disposed within two weeks since the applicant has already incurred the liability and paid the tax. Chief commissioner to monitor and ensure expeditious disposal
- **Multiple business premises under same GSTIN**
 - Provision for CA certificate provided for
 - Assessee also has an option to register the eligible units as a separate GSTIN



GST Legal Updates

Himachal Pradesh High Court holds that order under Budgetary Support Scheme is appealable u/s 107 of CGST Act, 2017

Case of Mags Garments Pvt Ltd Vs Union of India – decision dated 31.12.2018 in CWP 3061 of 2018

Decision of the Hon'ble High Court

“Having gone through the contents of the Scheme of Budgetary Support under Goods and Service Tax regime especially in the light of Tax which accrues to the Central Government under Central Goods and Service Act, 2017 and Integrated Goods and Services Act, 2017, it appears to us that the impugned order, dated 13th November, 2018, passed by the Assistant Commissioner, Goods and Service Tax, Division, Baddi is appealable before the Appellate Authority under Section 107 of the Central Goods and Service Tax Act, 2017 duty free shop should be made applicable to the Petitioner as well.”

Audit under Service Tax can continue post GST – Interim order of the Hon’ble High Court of Kolkata

**Case of Gitanjali Vacationville Pvt Ltd Vs Union of India reported in
2019-TIOL-153-HC-Kol-ST**

Facts

The impugned notice dated August 24, 2018 and the two subsequent reminders, the authorities are proposing to conduct an audit under the provisions of the Chapter V of the Finance Act, 1994. The Petitioner challenges these communications on the ground that they were issued without jurisdiction as the Central Goods and Services Tax Act, 2017 repeals Chapter V of the Finance Act, 1994 and further that an audit contemplated under Chapter V of the Finance Act, 1994 is not saved by the provisions of Section 174 of the Act of 2017.,

Audit under Service Tax can continue post GST – Interim order of the Hon’ble High Court of Kolkata

Decision of the Hon’ble High Court

The High Court held that Provisions of Chapter V of the Finance Act, 1994 stands omitted by Section 173 of the Act of 2017 save as otherwise provided under the Act of 2017. Therefore, if any provision of the Act of 2017 allows the applicability of the Chapter V of the Finance Act, 1994, then notwithstanding the omission of the Chapter V of the Finance Act, 1994 under Section 173, the same continues to apply . **On a prima facie reading of Sections 173 and 174 of the Act of 2017, it appears that an enquiry or an investigation or even a legal proceeding under the Act of 1994 is permissible notwithstanding the coming into effect of the Act of 2017** - The authorities are proposing undertake an audit for the period when the Act of 1994 was applicable, the authorities are entitled to do so.

Thus, the High Court declined to grant interim stay

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