

GST Update

Weekly Update
08.12.2018

Background



- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 01.12.2018. 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

- Four CBIC Press Releases issued
- One Customs circular clarifying the amendment of EOUs notifications in view of implementation of GST and exempting EOUs from warehousing provisions
- New Duty Drawback Schedule increasing drawback rates on various export items issued

Time limit for filing Annual Returns and Reconciliation certificate extended

- [http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press Release 0712.pdf;jsessionid=011C6CD4165B9E5D717207A5430ABDB4](http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press%20Release%200712.pdf;jsessionid=011C6CD4165B9E5D717207A5430ABDB4)
- FORM GSTR-9 and FORM GSTR-9A have been notified vide notification No. 39/2018-Central Tax, dated 04.09.2018 while FORM GSTR-9C has been notified vide notification no. 49/2018-Central Tax, dated 13.09.2018 as part of the CGST Rules.
- The due date for filing FORM GSTR-9, FORM GSTR-9A and FORM GSTR-9C extended till 31st March, 2019.
- The requisite FORMs shall be made available on the GST common portal shortly.

Examination of GST Practitioners

- GST Practitioners (GSTPs) covered under Rule 83(1)(b) of CGST Rules 2017, i.e. those enrolled as a sales tax practitioners or tax return preparer under the existing law for a period not less than five years, and enrolled Rule 83(2) of the said Rules. Exam to be conducted on 17.12.2018 .
- For the said examination, candidates enrolled up-to 4.12.2018 (11.59.59 PM) will be eligible to register, instead of 26.11.2018, notified earlier.
- Further, if there are any candidates who get enrolled from 5.12.18 to 16.12.18 in the relevant category, they will also be allowed to register and appear in examination on provisional basis. Such candidates will have to make a request to NACIN for provisional registration at email gstp.nacin@gmail.com. Such candidates will be required to appear at the test centres as allotted by NACIN. The registration fee paid by such candidates shall be non refundable, irrespective of their eligibility.

Press Release on Effective Rate of Tax on Flats/Buildings

- [http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press Release 0812.pdf;jsessionid=45D9F4847AF5B1AEDFA4C8365990E4CF](http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press%20Release%200812.pdf;jsessionid=45D9F4847AF5B1AEDFA4C8365990E4CF)
- It is brought to the notice of buyers of constructed property that there is no GST on sale of complex/ building and ready to move-in flats where sale takes place after issue of completion certificate by the competent authority.
- GST is applicable on sale of under construction property or ready to move-in flats where completion certificate has not been issued at the time of sale.

Press Release on Effective Rate of Tax on Flats/Buildings

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

Period	Output Tax Rate	Input Tax Credit details	Effective Rate of Tax
Pre-GST	Service Tax: 4.5% VAT: 1% to 5% (composition scheme)	Central Excise on most of the construction materials: 12.5% VAT: 12.5 to 14.5% Entry Tax: Yes	No input tax credit (ITC) of VAT and Central Excise duty paid on inputs was available to the builder for payment of output tax, hence it got embedded in the value of properties. Considering that goods constitute approximately 45% of the value, embedded ITC was approximately 10- 12%. Effective pre-GST tax incidence: 15- 18%

Press release on Effective Rate of Tax on Flats/Buildings

- Post GST Scenario

GST	Affordable housing segment: 8%, Other segment: 12% after 1/3 rd abatement of value of land	Major construction materials, capital goods and input services used for construction of flats, houses, etc. attract GST of 18% or more.	ITC available and weighted average of ITC incidence is approximately 8 to 10%.	Effective GST incidence, for affordable segment and for other segment has not increased as compared to pre-GST regime.
-----	--	---	--	--

Press release on Effective Rate of Tax on Flats/Buildings

- Housing projects in the affordable segment such as Jawaharlal Nehru National Urban Renewal Mission, Rajiv Awas Yojana, Pradhan Mantri Awas Yojana or any other housing scheme of State Government etc., attract GST of 8%. For such projects, after offsetting input tax credit, the builder or developer in most cases will not be required to pay GST in cash as the builder would have enough ITC in his books of account to pay the output GST.
- For projects other than affordable segment, it is expected that the cost of the complex/ buildings/ flats would not have gone up due to implementation of GST. Builders are also required to pass on the benefits of lower tax burden to the buyers of property by way of reduced prices/ instalments, where effective tax rate has been down

Status of GST Refunds

- Total GST refunds to the tune of Rs 91,149 crores have been disposed by CBIC and State authorities out of the total refund claims of Rs 97,202 crores received so far. Thus, the disposal rate of 93.77 per cent has been achieved. The pending GST refund claims amounting to Rs 6,053 crores are being expeditiously processed so as to provide relief to eligible claimants. Refund claims without any deficiency are being cleared expeditiously.
- In case of IGST refunds, about 95 % (Rs 48,455 crores) of the total IGST refund claims (Rs. 50,928 crore) transmitted to Customs from GSTN as on 28.11.2018 have already been disposed. The remaining claims amounting to Rs. 2,473 crores are held up on account of various deficiencies which have been communicated to exporters for remedial action.

Status of GST Refunds

- In the case of RFD-01A (ITC Refunds plus other refunds) claims, out of the total refund claims of Rs. 46,274 crores received in the jurisdictional tax offices, the pendency as on 03.12.2018 is Rs. 902 crores with Centre and Rs 2,678 crore with States. Provisional/final order has been issued in case of refunds amounting to Rs. 37,406 crores. In claims amounting to Rs. 5,288 crore, deficiency memos have been issued by respective GST authorities and action will be taken after receipt of replies from the claimants.
- Efforts are being made continuously to clear all the pending refund claims, where ever requisite information is provided and found eligible. Cooperation of the exporter community is solicited to ensure that they respond to the deficiency memos and errors communicated by Centre and State GST as well as Customs Authorities and also exercise due diligence while filing GSTR 1 and GSTR 3B returns as well as Shipping Bills.

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

- <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2018/Circular-50-2018-Customs.pdf;jsessionid=D40D44B17ADEAB80542B75A838D87301>
- Notification No. 52/2003-Customs, dated 31.03.2003 amended by Notification No. 79/2018-Customs, dated 05.12.2018
 - Imported goods could be temporarily cleared without payment of all Customs duties, IGST and Compensation Cess not paid at the time of their import. However, the applicability of GST on supply of such goods shall be independently governed by GST laws.

Clarification with respect to amendments to Customs and Central Excise notifications for EOUs (Contd)

- When duty has to be paid on the imported goods such as when these are cleared from the EOU, the same would be the duty/tax for which exemption was availed at the time of their import. However, in the case of capital goods, depreciation would be allowed as provided in para 4 of the Notification No. 52/2003-Customs, dated 31.03.2003. Further, for leftover textile fabric or textile material, such payment of duty would be based on the transaction value as per existing provisions.
- A job worker would need registration under GST Act/Rules to enable the EOUs to export of GST goods directly from its premises.
- The redundant/old notifications/ provisions of the FTP have been suitably removed/ modified/ updated

Clarification with respect to amendments to Customs and Central Excise notifications for EOUs (Contd)

- Notification No. 52/2003-Customs, dated 31.03.2003 amended by Notification No. 79/2018-Customs, dated 05.12.2018
 - A job worker would need registration under GST Act/Rules to enable the EOUs to export of GST goods directly from its premises.
 - The redundant/old notifications/ provisions of the FTP have been suitably removed/ modified/ updated

Clarification with respect to amendments to Customs and Central Excise notifications for EOUs (Contd)

- Revised B-17 bond– by Notification No. 1/2018--Central Excise (N.T.), dated 05.12.2018 - a “Mother Bond” for Customs duty free import, Excise duty free domestic procurement, provisional assessment, export without payment of duty, movement of goods for job work and return, temporary clearances, proper accountal of goods, etc
- A revised B-17 (General Surety/Security) bond updated with references to GSTIN, present FTP provisions etc., has been notified under the present Rules 7, 9, 21 and 22 of the Central Excise Rules, 2017. This new bond will be applicable to the new EOUs. The existing EOUs shall continue with the earlier B-17 bond already executed by them so that there is no disruption in their working. Also, all relevant instructions applicable for the old B-17 bond will be mutatis mutandis applicable to the new B-17 bond.

- <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2018/cs-nt2018/csnt95-2018.pdf;jsessionid=5D62808A1CC85A97E25E1B9B3FC0D56E>
- **New Duty Drawback Schedule announced**
- Duty Drawback Rates increased on most of the products like fish and fish products, calcined petroleum coke, various chemicals, dyes, tyres, leather articles, textiles, carpets, electronic goods, mobiles etc
- Exports likely to get a boost and competitiveness



GST Portal Updates

New Functionality

- **Assessment & Adjudication-** Cross empowerment of Tax Officials, within a State/ UT
- The validation that State officer can assess taxpayers assigned to the concerned State only (& vice versa) has been removed. Thus CBIC officials can now do assessment of a taxpayer assigned to a State (& vice versa), within the jurisdiction of a State/ UT. CBIC or Model I States can now upload assessment orders, through API, irrespective of whether taxpayer is assigned to Centre or State/UT. Summary of the order in Form GST DRC-07, can now be uploaded by Model I States and CBIC officers through G2G APIs. Similarly, Model II State officers can also make assessment orders and upload summary in Form GST DRC-07, of the taxpayers assigned to Model I States or Centre.

New Functionality on assessment and adjudication (Contd)

- If the reply is filed consequent to a SCN or any notice, the same should be made available to the authority which has issued the said SCN or notice. Thus, if Form GST DRC-03 is filed consequent to issue of SCN, the same should be made available to the authority which has issued the same for issuance of Drop Proceedings order in Form GST DRC-05.
- Proceedings relating to scrutiny, summary assessment, determination of tax (73, 74), tax collected but not paid (76) and penalty etc. can be launched by any of the authority (State or Centre). Assessment of remanded cases will be handled by the authority which has issued the original order. Rectification of the order will also be carried out by the same authority

New Functionality on assessment and adjudication (Contd)

- Form GST DRC-07 consequent to enforcement proceedings u/s 129 or 130 can be uploaded by any authority irrespective of the registration approval authority of the taxpayer. For example, if a vehicle impounded by State authority and the taxpayer is assigned to Centre, in such cases, State authority can now upload the details of demand through GST DRC-07
- Liability Register will be updated for Model I States and CBIC through API whereas for Model II States, the access will be directly through the portal

New Functionality

- **Refund- Filing of Monthly Refund applications by Quarterly Return filers**
- The restriction for applying refund on quarterly basis for quarterly return filers is removed, so that these tax payer would also be able to file refund application on monthly basis. This implies that the taxpayer can file monthly refund application, but Form GSTR 1 for the quarter must be filed.

- **Prosecution & Compounding**
- Intimation about initiation of Prosecution Proceedings
- Tax official can (outside the system) file a complaint with the First Class Judicial Magistrate/Court for prosecution against a taxpayer.
- Taxpayer will be notified about initiation of prosecution on his dashboard and via Email / SMS.

- **GST Practitioner - Preparation of Form GST APL-01 by GSTP, on behalf of taxpayer**
- Tax payers can now select a GST Practitioner, to prepare an appeal in Form GST APL-01, to be filed by them.
- The GSTP can save draft of the appeal application form.
- The taxpayer and GSTP would be able to continue on the saved drafts of the appeal application form, saved by either of them

New Functionality

- **Advance Ruling- Appeal against the Advance Ruling given the Authority**
- Once an advance ruling is issued by the authority and if the applicant or the taxpayer is aggrieved by such an advance ruling, they can file appeal before the appellate authority
- *(refer Section 100 of the CGST Act, 2017)*

- **Advance Ruling- Rectification of mistake in the order by the advance ruling authority or its appellate authority**
- If there is any mistake in the order passed under Section 98 or 101, by the authority or the appellate authority, which is apparent from the record, the authority or the appellate authority can pass a rectification order for rectifying such mistake, if such mistake is noticed by the authority or by the appellate authority themselves or if such mistake is brought to its notice by the concerned or the jurisdictional officer or by the applicant/appellant, within a period of six months from the date of the order. The applicant/appellant can make an application to the authority/ appellate authority for rectification of the mistake.
- *(refer Section 102 of the CGST Act, 2017)*

New Functionality

- **Assessment & Adjudication - refer Section 161 of the CGST Act, 2017, Rule 142 of the CGST Rules, 2017 & Form GST DRC-08**
- Rectification of mistake in the order by the Adjudicating Authority
- Errors or mistakes apparent on face of record can be rectified by the Adjudicating Authority on the basis of suo-moto rectification or upon receipt of application from taxpayer, within a period of six months from the date of issue of such order. Rectification request can be given by taxpayer within 3 months from date of issue of order
- *(refer Section 161 of the CGST Act, 2017, Rule 142 of the CGST Rules, 2017 & Form GST DRC-08)*

New Functionality



- **Payment -Over the Counter (OTC) Payment**
- Presently, Normal GSTINs, who has selected their Constitution of Business as “Government Department” or “Others” in Registration Form, are able to create an OTC challan of more than Rs 10,000, in a Tax Period, on GST Portal
- But other Users (irrespective of their Constitution of Business) are not able to create an OTC challan of more than Rs 10,000, in a given Tax Period, on GST Portal
- Now, every taxpayer can create an OTC challan of more than Rs 10,000, in a given Tax Period, on GST Portal, in both pre-login & post login modes (*System check to limit OTC challan amount has been removed*)

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_Gol
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU