

GST Update

Weekly Update
01.12.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 24.11.2018. 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

- Five Central Tax Notifications issued for extending the dates for various return forms for taxpayers effected by cyclone in Andhra Pradesh and Tamil Nadu
- FAQs on TCS Updated by Law Committee, GST Council
- Customs Instructions on refund of IGST refund paid on exports made through non-EDI ports
- Two Press Releases issued

EXAMINATION FOR CONFIRMATION OF ENROLLMENT OF GST PRACTITIONERS

- http://www.cbic.gov.in/resources//htdocs-cbec/press-release/GSTP_29nov_eng.pdf;jsessionid=841122D5ABD6A385FE1CFD05BC8C5C8F
- The GSTPs in the relevant category, who are enrolled on GSTN after 15.11.2018 and till 26.11.2018, are also invited to register on the portal for the examination to be held on 17th December, 2018. The portal is open for registration up to 5.12.2018.

Extension of TDS Return GSTR-7

- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-66-central-tax-english-2018.pdf;jsessionid=E12950E688FF2334A2AEED6139B1D45C>
- Notification No. 66/2018 – Central Tax dated 29th November, 2018
- Time Limit for filing TDS Return FORM GSTR-7 under section 51 of the CGST Act read with rule 66 of the CGST Rules, 2017 for the months of October, 2018 to December, 2018
- Extended till the 31st January, 2019

Extension of due dates for filing GST returns in select districts of Andhra Pradesh and Tamil Nadu

Return/Form	Extended due date	Taxpayers eligible for extension
FORM GSTR-3B for the months of September and October, 2018	30th November, 2018	Taxpayers whose principal place of business is in the district of Srikakulam in Andhra Pradesh
FORM GSTR-3B for the month of October, 2018	20th December, 2018	Taxpayers whose principal place of business is in the 11 specified districts of Tamil Nadu

Extension of due dates for filing GST returns in select districts of Andhra Pradesh and Tamil Nadu

Return/Form	Extended due date	Taxpayers eligible for extension
FORM GSTR-1 for the months of September and October, 2018	30th November, 2018	Taxpayers having aggregate turnover of more than 1.5 crore rupees and whose principal place of business is in the district of Srikakulam in Andhra Pradesh
FORM GSTR-3B for the month of October, 2018	20th December, 2018	Taxpayers having aggregate turnover of more than 1.5 crore rupees and whose principal place of business is in the eleven specified districts of Tamil Nadu

Extension of due dates for filing GST returns in select districts of Andhra Pradesh and Tamil Nadu

Return/Form	Extended due date	Taxpayers eligible for extension
FORM GSTR-1 for the quarter July, September, 2018	30th November, 2018	Taxpayers having aggregate turnover of up to 1.5 crore rupees and whose principal place of business is in the district of Srikakulam in Andhra Pradesh
FORM GSTR-4 for the quarter July to September, 2018	30th November, 2018	Taxpayers whose principal place of business is in the district of Srikakulam in Andhra Pradesh

FAQs on TCS Updated by Law Committee, GST Council

- <https://www.cbec-gst.gov.in/pdf/FAQs-TCS-30-11-2018.pdf>
- **Whether TCS is required to be collected by ecommerce operators on supply of services by unregistered suppliers through their portal?**
- *As per Section 24(ix) of the CGST Act, 2017, every person supplying goods or services through an ecommerce operator is mandatorily required to register. However, vide Notification 65/2017-Central Tax dated 15th November, 2017 a person supplying services, other than supplier of services under section 9 (5) of the CGST Act, 2017, through an e-commerce platform were exempted from obtaining compulsory registration provided their aggregate turnover does not exceed INR 20 lakhs (or INR 10 lakhs in case of specified special category States) in a financial year. Since such suppliers are not liable for registration, ecommerce operators are not required to collect TCS on supply of services being made by such suppliers through their portal.*

FAQs on TCS Updated by Law Committee, GST Council(Contd)

- **Whether e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their e-commerce platform are located to undertake the necessary compliance as mandated under the law?**
- *As per the extant law, registration for TCS would be required in each State / UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State / UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in that State / UT where it does not have physical presence. It may be noted that each State/UT has indicated one administrative jurisdiction where all e-commerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT.*

FAQs on TCS Updated by Law Committee, GST Council(Contd)

- Foreign e-commerce operator do not have place of business in India since they operate from outside. But their supplier and customers are located in India. So, in this scenario will the TCS provision be applicable to such ecommerce operator and if yes, how will foreign e-commerce operator obtain registration?
- *Where registered supplier is supplying goods or services through a foreign e-commerce operator to a customer in India, such foreign ecommerce operator would be liable to collect TCS on such supply and would be required to obtain registration in each State / UT. It may be noted that each State/UT has indicated one administrative jurisdiction where all ecommerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT. If the foreign e-commerce operator does not have physical presence in a particular State / UT, he may appoint an agent on his behalf.*

FAQs on TCS Updated by Law Committee, GST Council(Contd)

- **Certain e-commerce operators who have been unable to obtain registration in the month of October, 2018 but have already collected TCS for the said month have expressed challenges in relation to the filing of such details in GTSR-8. It has been asked as to how these details are to be furnished on the common portal?**
- *E-commerce operators, who have been unable to obtain registration in the month of October, 2018 but have already collected TCS for the said month, may furnish the details of TCS collected in the month of October, 2018 in the first return in FORM GTSR-8 to be filed after obtaining registration.*

Refund of IGST Paid on exports from Non-EDI Sites

- <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-instructions/cs-instructions-2018/cs-ins-20-2018.pdf;jsessionid=AED877A89C75DC93F943C1BE1E128697>
- Instruction No. 20/2018-Customs dated 26th November, 2018
- Procedure for processing IGST refund claims for exports made from non-EDI sites is as under:
 - i. Export data is to be captured using offline utilities and transmitted by the field formations to DG(System) by e-mail
 - ii. The data is then uploaded for verification and final submission by the customs officer in ICES at the nearest EDI
 - iii. The refund scroll is then generated for the verified shipping bills after these are matched with the GST returns data from GSTN

Refund of IGST Paid on exports from Non-EDI Sites (Contd)

- Procedure for processing IGST refund claims for exports made from non-EDI sites is as under (Contd):
 - iv. A public enquiry has been made available on ICEGATE website for checking the details and IGST status of manual SBs verified in ICES
 - v. Specific IGST related errors or mismatches can also be checked by an importer/ Customs Broker for his SBs using his ICEGATE login
 - vi. It is only when a SB is verified by customs officer in ICES, does it become ready for IGST validation procedure



GST Legal Updates

Process of Detention cannot be resorted to when Dispute is bona-fide

Case of NVK Mohammed Sulthan Rawther And Sons Vs UoI reported in 2018-TIOL-170-HC-Kerala-GST.

Facts

The first petitioner consigned a load of Roja betel nut to the second petitioner, at Kerala. It entrusted the consignment to the ABT Parcel Service for transportation. In the invoice, the first petitioner described the commodity with "HSN 0802", and paid the tax at 5%. The first petitioner also raised the e-way bill.

On 26.09.2018, the Assistant State Tax Officer (ASTO), intercepted the lorry when it reached Palakkad. The lorry had been carrying other goods, too. The ASTO detained the goods, alleging that the first petitioner's product fits the description "HSN 2106" and attracts 18% tax-not 5%. In other words, the ASTO detained the goods because the petitioners had allegedly been trying to evade tax by mis-describing the product.

Process of Detention cannot be resorted to when Dispute is bona-fide

Case of NVK Mohammed Sulthan Rawther And Sons Vs UoI reported in 2018-TIOL-170-HC-Kerala-GST.

Decision of the High Court

The HC held that if the records he seizes truly reflect the transaction and the assessee's explanation accords with his past conduct, for example, the returns he has filed earlier, the detention is not the answer. At best the inspecting authority can alert the assessing authority to initiate the proceedings "for assessment of any alleged sale, at which the petitioner will have all his opportunities to put forward his pleas on law and on fact." The process of detention of the goods cannot be resorted to when the dispute is bona fide, especially, concerning the exigibility of tax and, more particularly, the rate of that tax.

The High Court while deciding as above relied on the case of J.K. Synthetics Limited Vs Commercial Tax Officer – (1994) 4 SCC 276 and Rams vs Sales Tax Officer. The order of detention was held arbitrary and unsustainable, and was accordingly set aside.

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