

# GST Update

Weekly Update  
01.06.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 18.05.2019. It supplements the earlier GST Updates.
- No Update was issued on 25.05.2019 as no notification/ circular was issued in the week,
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

- No CGST Notification/ circular issued last week
- Kerala Flood Cess Notifications issued; Kerala Flood Cess Rules issued
- Prototype of New GST Returns issued by GSTN

# Kerala Flood Cess

- Kerala to levy calamity cess up to 1% over and above GST, for the purpose of providing reconstruction, rehabilitation and compensation needs which had arisen due to massive floods which occurred in the State during August, 2018
- The Power to impose such a levy flows from Article 279(A) (4)(F) of the constitution
- Rates of Kerala Cess
  - Goods taxed at the rate of 1.5% = 0.25% Cess
  - Goods taxed at the rate of 6%, 9% and 14% = 1% Cess
  - All Services under Kerala GST= 1% Cess

# Kerala Flood Cess



- The Cess will be levied for two years
- The Cess will be levied only on the value of supplies made within the state by registered dealers, (intra state supplies only) to unregistered persons which means the levy will be only on retail transactions(B2C)
- Thus, **no credit** is allowed on the cess paid as the same is levied on transactions made by taxable persons to the unregistered end consumers. B2B transactions are not covered in Kerala Flood cess.
- The cess shall be paid **on the taxable value of supplies** under section 15 of CGST Act, made by the taxable person to the unregistered person.
- No refund of Kerala Flood Cess is to be allowed

## Kerala Flood Cess (Contd)

- Small dealers who have availed the Composition Scheme, that allows taxpayers to pay a flat GST without the facility to avail input tax credit, are excluded from the levy.
- No cess on items that are taxed at 5 percent or below, except gold, silver and platinum ornaments. However, a cess of 0.25 percent will be levied on gold, silver, platinum ornaments, precious stones, imitation jewellery, diamonds, among other items, that fall in the fifth schedule of GST rates.
- Kerala Flood Cess
  - To be levied on Intra-State B2C Supplies

# Kerala Flood Cess (Contd)

- Separate monthly return in form KFC-A to be filed along with GSTR-3B
- The return to be filed on [www.keralataxes.gov.in](http://www.keralataxes.gov.in)
- In order to e-file cess return and payment of cess, one time user Id and password to be generated from the portal
- The Kerala Flood Cess shall come into force w.e.f **1<sup>st</sup> July, 2019**
- The Cess will be applicable for a period of two years i.e till 30.06.2021

# New GST Returns

- **Prototype of offline tools of New GST Return released by GSTN**
- **A new website [www.demoofflinetool.gst.gov.in](http://www.demoofflinetool.gst.gov.in) for offline demonstration of New GST Return process for the taxpayer. Therefore the taxpayer can access the offline tool of New GST Return process, and provide their feedback for improvisation purpose**
- **New Return Formats for all three types- Normal, Sahaj and Sugam released;**
- **FAQs on ANX1 and ANX2 released**
- **Webinar also held by GSTN which is available on YouTube as well**



# Free Accounting & Billing Software for MSMEs

- <https://www.gst.gov.in/newsandupdates/read/282>
- As per directions of GST Council, GSTN has partnered with some Billing and Accounting software vendors for providing free software to the Micro, Small and Medium Enterprises, with annual turnover under Rs 1.5 Cr, in a financial year. This facility is made available to the active Normal taxpayers, SEZ Developers/SEZ Units and taxpayers who have opted for composition scheme under the GST regime.
- There are eight products to choose from. These are available as a cloud based version as well as a downloadable version that installs on desktop or laptop. This software allows a taxpayer to run his daily business by providing day to day billing and accounting features, along with facility for return filing for their GST related compliances.

# Free Accounting & Billing Software for MSMEs (Contd)

- The software would be available free of cost to eligible taxpayers till 31.03.2021 or till the taxpayer's annual turnover remains under Rs 1.5 Cr in a financial year, after which the taxpayers may have to pay a fee to the vendor.
- For using features other than free features listed or using the software beyond the initial free period, the taxpayer may visit respective vendor product site to ascertain fee payable, if any.
- To download the accounting and billing software on the GST Portal, the taxpayer need to login to the GST Portal with valid credentials and navigate to **Downloads > Accounting and Billing Software option.**

# Free Accounting & Billing Software for MSMEs (Contd)

- The user manual and FAQs for the same and vendors providing software can be viewed at the following links: [https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=manual\\_accountingsoftware.htm](https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=manual_accountingsoftware.htm)
- [https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=FAQs\\_Accountingsoftware.htm](https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=FAQs_Accountingsoftware.htm)
- It may be noted that all queries/questions need to be taken up with the software vendors and NOT with GST Helpdesk.
- *Disclaimer: GSTN makes no representations or warranty whatsoever about the Account & Billing Software. When you access the software, please understand that it is independent from GSTN, and that GSTN has no control over that Software. GSTN does not endorse or accepts any responsibility the use/misuse by such Software. GSTN is not collecting taxpayers' data through the Software in any manner.*

- **Total GST Revenue in May, 2019**
- **₹ 1,00,289 crore** of which CGST is ₹ 17,811 crore, SGST is ₹ 24,462 crore, IGST is ₹ 49,891 crore (including ₹ 24,875 crore collected on imports).
- Collection from cess was ₹ 8,125 crore (including ₹ 953 crore collected on imports).
- An amount of ₹ 18,934 crore has been released to the states as GST compensation for the months of February-March, 2019.



# GST Portal Updates

- **Form GSTR-9, Annual Return for 2017-18**
- Facility to file Annual Return by normal taxpayers in Form GSTR 9, for Financial Year 2017-18, is now available at GST Portal.
- The FAQs and Manual for Form GSTR-9 is available on the GST Portal
- APIs for Form GSTR 9 has been released for CBIC/Model I States for back office integration.
- *(refer Section 44 of the CGST Act, 2017 & Rule 80 of the CGST Rules, 2017 )*

- **Form GSTR-9A, Annual Return for 2017-18 for composition taxpayer**
- Facility to file Annual Return by composition taxpayers in Form GSTR 9A ,for Financial Year 2017-18, is now available at GST Portal.
- APIs for Form GSTR 9A has been released for CBIC/Model I States for back office integration.
- *(refer Section 44 of the CGST Act, 2017 & Rule 80 of the CGST Rules, 2017 )*

- **Revocation of cancellation of Registration**
- Facility for applying for revocation of suo moto cancellation of registration for the persons registered as OIDAR /TDS /TCS/NRTP category has been enabled on GST Portal.
- 
- *APIs for these functionalities have also been released for CBIC and Model I States*



## New Functionality

- **Viewing & Downloading of month-wise Comparative Table on Liability Declared and Credit Claimed**
- Normal taxpayers can view and download a report on tax liability as declared in their Form GSTR- 1 and as declared & paid in their return filed in Form GSTR 3B. The new facility enables the taxpayers to view these two liabilities in one table for each return period at one place, which can be compared. This will enable taxpayers to make good of any differences between the two Forms filed by them on GST Portal.
- The taxpayers have also been provided information regarding data of Input tax credit (ITC) as claimed in their Form GSTR 3B and as accrued in Form GSTR 2A. Now taxpayers can see both these data sets and compare the input tax credit availed by them.

- **Viewing & Downloading of month-wise Comparative Table on Liability Declared and Credit Claimed**
- Taxpayer has been provided with facility to view the liability paid due to reverse charge as declared & paid in Form GSTR 3B and as accrued in Form GSTR 2A, due to uploading of such details by the supplier in Form GSTR-1.
- Taxpayer can view and compare the liability related to exports & SEZ supplies as declared in their Form GSTR-3B during the month [as per table 3.1(b)] and liability as declared in their Form GSTR-1 (Zero rated supplies) as per table 6A, 6B, 9A, 9B & 9C of the Form GSTR 1.
- The data can also be downloaded in Excel file for viewing and comparison later on.



# GST Legal Updates

## Case of Sapna Jain & Ors Vs Union of India & Ors reported in 2019-TIOL-217-SC-GST

### Facts

The present petitions contest the power of the Revenue to make arrests for contravention of the provisions of the GST Act.

### Decision

As the different High Courts took divergent views in this regard, the position of law must be clarified.

Moreover, as the respondent-assesseees were allowed anticipatory bail in the orders being challenged, such orders do not warrant interference.

## Supreme Court to clarify the position of law on the power to arrest under GST

**Case of Sapna Jain & Ors Vs Union of India & Ors reported  
in 2019-TIOL-217-SC-GST**

### **Decision**

**Nonetheless, while entertaining any such requests in future, the order of the Telangana High Court be kept in mind, which has said that individuals can't be given protection from arrest in such cases. This order has earlier been upheld by the apex court.**

The present matters as well as connected matters be listed before a three judge Bench to decide the question of law on the power of arrest.

## Case of Union of India Vs Filco Trade Centre Pvt Ltd & Anr reported in 2019-TIOL-153-SC-GST

### Facts

The instant petition was filed challenging the Constitutional vires of Section 140(3)(iv) of CGST Act, 2017 - The Gujarat High Court held that no just, reasonable or plausible reason is shown for making such retrospective provision taking away the vested rights - clause (iv) is unconstitutional - Bombay High Court decision in JCB India Ltd. - 2018-TIOL-23-HC-MUM-GST disagreed - at the request of counsel for the Revenue this judgement stayed up to 31.10.2018.

## Decision of the Hon'ble Supreme Court

The Hon'ble Supreme Court held as under-

The Revenue's counsel highlights a difference of opinion between the High Courts. The Bombay High Court took a different view in favor of the Revenue but the same was not followed by the Gujarat High Court in its judgment. Notices be issued within six weeks. Meanwhile, operation of the Gujarat High Court's decision is stayed.

# Supreme Court upholds decision of Hon'ble Telangana HC which rejected challenge to the power to issue summons under GST

**Case of P.V. Ramana Reddy Vs Union of India & Ors reported in 2019-TIOL-216-SC-GST**

## **Facts**

The petitioner had approached the High Court, challenging summons issued by the Superintendent (Anti Evasion) u/s 70 of the CGST Act as well as invocation of penal provisions u/s 69 of the Act. In a plea akin to one seeking anticipatory bail, the petitioner and others sought that directions be issued to the Revenue to not arrest them through exercise of powers u/s 69(1) of the Act. The main allegation of the Revenue was that the petitioners were guilty of circular trading by claiming ITC on materials never purchased & that the petitioners passed on such ITC to companies to whom the goods were never sold.



## Supreme Court upholds decision of Hon'ble Telangana HC which rejected challenge to the power to issue summons under GST

### Facts....Contd...

The High Court observed that to say that prosecution could be launched only after completing assessment would run contrary to provisions of Section 132. The list of offences u/s 132 are not co-related to assessment. It was also noted that issuing invoices or bills without supplying goods & availing ITC by using such invoices were made offences u/s 132(1)(b) & (c) & that the prosecution for these offences was not dependent upon completion of assessment. The High Court also rejected the petitioner's contention of there being no necessity to arrest a person for an alleged offence which is compoundable. All technical objections raised by the petitioners were rejected. The High Court then observed that despite the petitions being maintainable & that protection u/s 41 & 41A of CrPC being available to the persons who are said to have committed cognizable & non-bailable offences & despite the findings of incongruities within Section 69 & 132 of the Act, it was not inclined to grant relief to the petitioners.

# Supreme Court upholds decision of Hon'ble Telangana HC which rejected challenge to the power to issue summons under GST

## Decision of the Hon'ble Supreme Court

The Hon'ble Supreme Court held as under

No intervention is warranted in this case. The SLP and pending interlocutory applications stand dismissed.

# Supplies from Duty Free Shops are inter-state supplies – NOT TO ATTRACT CGST+SGST

## Case of Atin Krishna Vs Union of India reported in 2019-TIOL-1136-HC-ALL-GST

### Facts

The present public interest litigation was filed seeking proper implementation of the provisions of the CGST, SGST & IGST Act in respect of Duty Free Shops at the Lucknow Airport. It is alleged that the mis-interpretation of the provisions of these Acts results in huge financial loss to the State Exchequer, on account of various exemptions being enjoyed by such shops. The petitioner claimed that the operator of the Duty Free Shops is liable to pay IGST on the goods imported into India, but the same was not paid. It is also claimed that goods were sold to international passengers without charging the applicable CGST & SGST on sale of goods. Lastly, it was alleged that the authority overseeing the functioning of the shops incorrectly claimed refund of accumulated ITC of GST paid on service of renting of immovable property by AAI & on procurement of domestic goods & services - It was also stated that sale invoice issued to international passengers was incorrectly passed off as proof of export of goods.

# Supplies from Duty Free Shops are inter-state supplies – NOT TO ATTRACT CGST+SGST

## The High Court held as under

The Duty Free Shops are located in the Custom area as per Section 2(11) of the Customs Act 1962. Supply of imported goods to & from the duty free shops do not cross the Customs frontier & hence such supplies classify as inter-State supply u/s 7(2) of the IGST Act. Hence the same cannot attract CGST and SGST u/s 9 of either Act

Point of time - It is one essential ingredient for levying IGST on supply of goods imported into India & governed by proviso to Section 5(1) of the IGST Act r/w provisions of the Customs Act 1962. From the Apex Court's judgment in Garden Silk Mills Ltd. Vs. Union of India it is clear that the effective taxable event for levying Customs duty is the time only when the goods cross the Customs frontier & bill of entry for home consumption is filed. Hence when imported goods are kept in Customs warehouse & then exported therefrom, the stage for payment of Customs duty does not arise. Thus neither Customs nor IGST is payable.

# Supplies from Duty Free Shops are inter-state supplies – NOT TO ATTRACT CGST+SGST

## The High Court held as under

The supply of warehoused goods by the duty free shops at the departure terminal is made to departing international passengers who are destined for some foreign location - Hence the goods supplied are never cleared for home consumption & the warehoused goods are exported - Hence no Customs or IGST duty is leviable - IGST is not payable on the supply either to or from the DFS located at the arrival or at departure terminal.

Export of goods - Clearly, the goods sold to passengers at the international departure terminal duty free shops are not cleared for home consumption or for removal to another warehouse or otherwise provided in the Customs Act - Hence they are cleared without payment of duty only for export u/s 69 of the Customs Act under an invoice which is deemed to be a shipping bill - Thus the sale at such shops would be export of goods under Customs - Ergo, the same classifies as export of goods under the GST Act, since both legislations have the same definition for export and export of goods - Hence the exemptions have rightly been allowed.

# Delhi High Court directs Petition of Wind Turbine Assn to also be considered by GST Council

**Case of Indian Wind Turbine Manufacturers Association Vs Union of India & Ors reported in 2019-TIOL-1159-HC-DEL-GST**

## Facts

The Court's attention is drawn to an order dated 3rd May, 2019 passed in WP(C) No.4714/2019 = 2019-TIOL-1011-HC-DEL-GST which is a petition by the Solar Power Developers Association.

The present petition is by the Indian Wind Turbine Manufacturers Association.

# Delhi High Court directs Petition of Wind Turbine Assn to also be considered by GST Council

**Case of Indian Wind Turbine Manufacturers Association Vs Union of India & Ors reported in 2019-TIOL-1159-HC-DEL-GST**

## **Decision of the High Court.**

The Court is of the view that the present petition also be placed for consideration before the GST Council. If there has already been a pre-consultation with the Petitioner then the petition be placed before the GST Council on the same date when it is considering the case of the Solar Power Developers Association. If not, then preparatory to the above step the Petitioners will be called before the Central Board of Indirect Taxes & Customs through their authorized representatives for a consultative meeting within the next four weeks. If necessary, the concerned Ministry which is Ministry of Renewable Energy, Government of India will also be invited to such consultative meeting and the deliberations of that meeting also be placed before the GST Council for its consideration. The Petitioner be informed of the date, time and venue of the meeting at least one week in advance.

## Any ISSUES/ queries?



- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
  - 1800 1200 232
  - [cbecmitra.helpdesk@icegate.gov.in](mailto: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](https://twitter.com/askGST_GoI)
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- [https://twitter.com/NACIN\\_OFFICIAL](https://twitter.com/NACIN_OFFICIAL)

**THANK YOU**