

# GST Update

Weekly Update  
02.01.2021

# Background



- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 19.12.2020. It supplements the earlier GST Updates. No updates were issued on 26.12.2020.
- This presentation is based on CGST Act/Rules/ Notifications, except the provisions related solely to SGST provisions. Similar parallel provisions in State Laws may be referred to as required

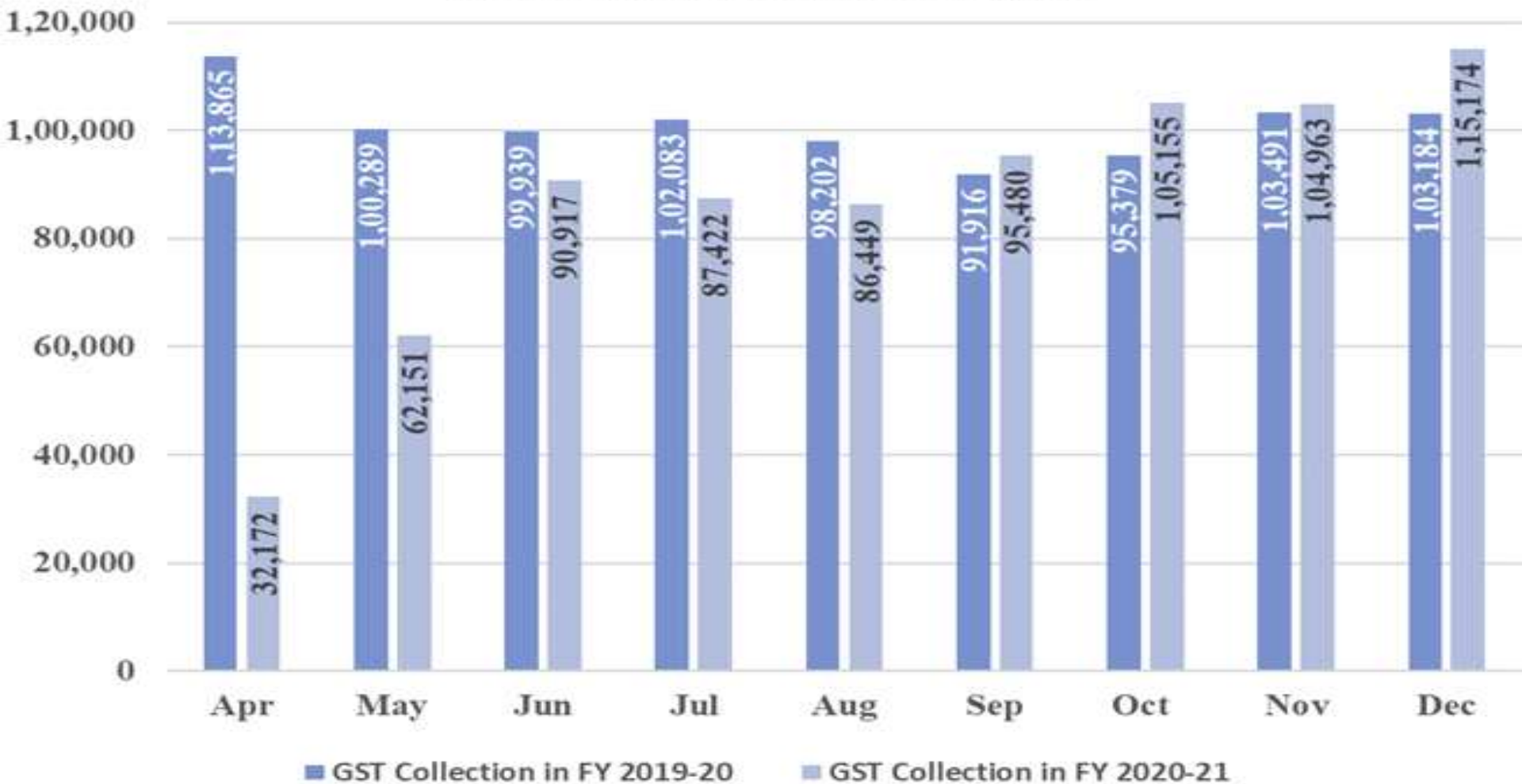
# GST Revenue for December 2020



- <https://pib.gov.in/PressReleaseframePage.aspx?PRID=1685332#:~:text=The%20gross%20GST%20revenue%20collected,collected%20on%20import%20of%20goods>).
- GST Revenue collection for December 2020 recorded all time high since implementation of GST at ₹ 1,15,174 crore
- Revenues for December 2020 are 12% higher than the GST revenues in the same month last year
- The gross GST revenue collected in the month of December 2020 is ₹ **1,15,174 crore** of which CGST is ₹ **21,365 crore**, SGST is ₹ **27,804 crore**, IGST is ₹ **57,426 crore** (including ₹ 27,050 crore collected on import of goods) and Cess is ₹ 8,579 crore (including ₹ 971 crore collected on import of goods).

# GST Revenue for December 2020 (Contd)

Trends in GST Collection in Rs. crore



# Late fee for GSTR-4 filing in UT of Ladakh



- **Notification No. 93/2020-Central Tax dated 22<sup>nd</sup> December 2020**
- Late fee for FORM GSTR-4 filing in UT of Ladakh for Financial year 2019-20.
- Late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20 under section 47 of the CGST Act, from the 1<sup>st</sup> November 2020 till the 31<sup>st</sup> December 2020
  - shall stand waived for the registered person whose principal place of business is in the Union Territory of Ladakh.

# Time Limit for Annual Return



- **Notification No. 95/2020 – Central Tax dated 30<sup>th</sup> December 2020**
- Time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 read with rule 80 of the CGST Rules 2017 for the financial year 2019-20
- Extended till 28.02.2021

## **Amendment to CGST Act, 2017**

**Notification No 92/2020-Central Tax dated 22<sup>nd</sup>  
December 2020( Sections 119, 120, 121, 122, 123, 124,  
126, 127 and 131 of Finance Act, 2020 come into force  
w.e.f 1<sup>st</sup> January 2021)**

## Section 10- Composition Scheme

- In section 10(2) of the CGST Act, in clauses (b), (c) and (d), after the words “*of goods*”, the words “*or services*” shall be inserted
- Thus, the conditions for eligibility to pay tax under composition are harmonised and certain categories of taxable persons, engaged in making-
  - supply of services not leviable to tax under the CGST Act, or
  - inter-State outward supply of services, or
  - outward supply of services through an e-Commerce operator.
- Are excluded from the ambit of the Composition scheme.



## Section 16(4)- Time limit for taking credit of debit note

- In section 16(4) of the CGST Act, the words “invoice relating to such” is omitted.
- Thus, the date of issuance of debit note is delinked from the date of issuance of the underlying invoice for purposes of availing input tax credit.

- Section 29(1) of the CGST Act, for clause (c), the following clause shall be substituted, namely:—
- *“(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25:”*
- Thus, now it also provides for cancellation of registration which has been obtained voluntarily under section 25(3)

## Section 30(1)- Time limit for revocation of cancellation of registration



- Section 30(1) of the CGST Act (Revocation of cancellation of registration)
  - Time limit of 30 days to apply for revocation of cancellation of registration ,
  - Made extendable by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days and by the Commissioner, for a further period not exceeding thirty days

## Section 31- Invoice



- Section 31(2) of the CGST Act, for the proviso, the following proviso shall be substituted, namely:—
  - “Provided that the Government may, on the recommendations of the Council, by notification,— (a) ***specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed***; (b) subject to the condition mentioned therein, specify the categories of services in respect of which— (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or (ii) tax invoice may not be issued.”.

## TDS- Section 51(3) & (4)

- Section 51 of the CGST Act,— (a) for sub-section (3), the following sub-section shall be substituted, namely:—
  - ***“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.***
  - Earlier sub-sections (3) and (4) which provided for requirement of issuing TDS certificate on deductor and provision for late fees for not issuing such certificate with in five days are deleted

## Amendment of section 122



- In section 122 of the CGST, after sub-section (1), the following sub-section shall be inserted, namely:—
- *“(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.*
- Thus, it makes the beneficiary of the transactions of passing on or availing fraudulent Input Tax Credit liable for penalty similar to the penalty leviable on the person who commits such specified offences.

## Amendment of section 132

- Section 132 of the CGST Act, in sub-section (1),—
- (i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;
- (ii) for clause (c), the following clause shall be substituted, namely:— “(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;
- (iii) in sub-clause (e), the words “, fraudulently avails input tax credit” shall be omitted.

## Amendment to Schedule II

- In Schedule II to the CGST Act, in paragraph 4, the words “whether or not for a consideration,” at both the places where they occur, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July 2017.
- Schedule II cannot include a transaction, without consideration, because then it would not be a supply at all in the first place. Schedule II, issued under section 7(1)(d) is meant only for the purpose of classification of a transaction either as a supply of goods or as a supply of services
- Thus, para 4 is being corrected retrospectively from 1st July 2017



## **Amendment in the CGST Rules 2020**

Notification No. 94/2020 CT dated 22<sup>nd</sup> December 2020

Notification No. 01/2021 CT dated 1<sup>st</sup> January 2020

# Time limit for system-based GST Registration increased

- The time for system-based registration has been enhanced from 3 days to 7 days.
- That means, now department shall be required to review and grant registration within 7 days against 3 days as provided earlier from the date of filing of registration application.
- Where the applicant does not do adhaar authentication or where department feels fit to carry out physical verification the time limit for grant of registration shall be 30 days instead of 21 days.

# Cancellation of GSTIN



- **Clause (e) in Rule 21 of CGST Rules 2017.**
  - Now the officer can proceed for cancellation of GSTIN where a taxpayer avails Input Tax Credit (ITC) exceeding than that permissible in Section 16.
- **Clause (f) inserted in Rule 21 of CGST Rules, 2017**
  - Liability in GSTR-3B < GSTR-1, cancellation may be initiated
  - Where the liability declared in GSTR 3B is less than that declared in GSTR 1 in a particular month, department may now proceed with cancellation of GSTIN.

# Suspension of GSTIN



- Now, no opportunity of being heard shall be given to a taxpayer for suspension of GSTIN, where the proper officer (PO) has reasons to believe that the registration of person is liable to be cancelled.
- The words “opportunity of being heard” omitted from clause (2) of Rule 21A.

## Cancellation Notice in GST REG-31



- Where there are significant deviation / anomalies between details of outward supply between GSTR 3B and GSTR1 or inward supplies (ITC) between GSTR 3B and GSTR 2B which indicate contravention of Act, department shall now serve a notice in **FORM GST REG 31** to call explanation as to why GSTIN should not be cancelled.
- Taxpayer shall be required to submit his reply within 30 days of such notice being served to him.

# No refund during suspension of GSTIN

- Where a GSTIN is suspended, no refund under Section 54 of CGST Act 2017 can be availed by the taxpayer.
- This means that first GSTIN Suspension proceedings have to be closed before applying for refund.

## Restriction on claim of ITC as per Rule 36(4)

- The claim of ITC in respect of invoices not furnished by the corresponding vendors has now been restricted to 5% of the credit available in GSTR 2B. This limit earlier was 10% of ITC available.
- This would mean that a taxpayer's ITC claim shall now be restricted to 105% of the Credit reflected in his GSTR 2B.
- Any claim exceeding the specified limit shall result in violation of CGST Act read with rules which may result into suspension of GSTIN as described above.
- The provision shall come into effect from 1<sup>st</sup> January 2021.

# Blocking of GSTR-01 in case of non-filing of GSTR-3B

- Where a taxpayer fails to file GSTR-3B for two subsequent months, his GSTR-1 shall now be blocked.
- Earlier non filing of GSTR-3B used to result in blocking of E-way Bill facility but from now on it shall also result in blocking of GSTR-1 of the taxpayer.
- Similarly, for quarterly return filers, the taxpayer failing to file GSTR-3B for the preceding quarter shall not be permitted to file GSTR-1 of subsequent quarter.



# Restriction on utilization of ITC- Rule 86B



- New Rule 86B shall be affected from 1<sup>st</sup> January 2021 wherein restriction has been placed on setting off more than 99% of tax liability from Input tax credit where the value of taxable supplies other than exempt supply and zero rated supply exceeds Rs. 50 lakhs in a month. Few exceptions have been provided to this rule which are as follows:
  - Where the taxpayer has paid Income Tax exceeding Rs. 1 lakh in two preceding financial year.
  - Where taxpayer has received refund exceeding Rs. 1 lakhs u/s 54 of CGST Act 2017.
  - Where taxpayer has used electronic cash ledger to pay off liability on outward supplies which cumulatively makes 1% of the total liability up to the said month.
  - Where a person is a Government Department, Public Sector Undertaking (PSU), local authority or a statutory body.

## Validity of E-way Bill



- Earlier one day was permitted for distance up to 100 km under E-Way Bill provision.
- Now the same has been increased to 200 km.
- This means that only one day validity shall be granted to cover a distance up to 200 km which was earlier 100 km.

## **GST Portal Updates**

<https://www.gst.gov.in/newsandupdates/read/>

- A facility of **‘Communication Between Taxpayers’** has been provided on the GST Portal, for sending a notification by recipient (or supplier) taxpayers to their supplier (or recipient) taxpayers, regarding missing documents or any shortcomings in the documents or any other issue related to it. This facility is available to all registered persons, except those registered as TDS, TCS or NRTP.
- The counter party taxpayer will receive an e-mail on their registered e-mail address and an SMS on his registered mobile number for all notifications received.
- An alert will also be given to Recipient/Supplier on logging into the GST portal.
- A taxpayer is allowed to send up to 100 notifications to a single GSTIN for a particular tax period.
- The recipient can upload the details of missing documents (not uploaded by their supplier in his Form GSTR-1) and send a notification to their supplier, using this facility. Supplier can then add such documents directly in their Form GSTR-1, if not reported earlier.

# Auto-population of e-invoice details into GSTR-1/2A/2B/4A/6A

- For those taxpayers who had started e-invoicing from 1-10-2020, the auto-population of e-invoice data into GSTR-1 (of December 2020) had started from December 3rd, 2020.
- The data in GSTR-1 is now available on T+3 day basis, i.e. for example, the data from e-invoices uploaded on 18-12-2020 would be visible in GSTR-1 on 21-12-2020.
- The corresponding reflection of such e-invoice details in GSTR-2A/2B/4A/6A has also started.
- The auto-population of e-invoice data into GSTR-1 is based on date of document (as reported to IRP).
- For example, a document dated December, 30th, 2020 is reported to IRP on 3rd January, 2021 and where GSTR-1 for December, 2020 is **not filed**, then the details of that document will be available in the tables of GSTR-1 pertaining to December, 2020.

- However, if the GSTR-1 for December was already filed by that date, then, the details of such document will be made available in the consolidated excel file downloadable from GSTR-1 dashboard (with error description as 'Return already filed'). The taxpayer may thereupon take necessary action.
- The auto-population of details from e-invoices into GSTR-1 is only a facility for the taxpayers. After viewing the auto-populated data, the taxpayer shall verify the propriety and accuracy of the amounts and all other data in each field, especially from the perspective of GSTR-1 and file the same, in the light of relevant legal provisions.

# Invoice Furnishing Facility (IFF) for Taxpayers under QRMP Scheme

- An Invoice Furnishing Facility (IFF) facility has been provided to taxpayers under QRMP Scheme (Quarterly filers of Form GSTR-1 and also of Form GSTR-3B returns), as per Rule-59(2) of the CGST Rules, 2017. Taxpayers who have opted for quarterly filing frequency under the scheme can file their details of outward supplies (B2B invoices only) for first two months of a quarter (M1 and M2 respectively of a Quarter) in IFF. For e.g. for Apr-June qtr., B2B invoices only for the months of April (M1) and May (M2) can be filed in IFF by a taxpayer.

- The IFF is a facility similar to Form GSTR-1, and it allows filing of details of B2B invoices in following tables only:
  - 4A, 4B, 4C, 6B, 6C - B2B Invoices
  - 9B - Credit / Debit Notes (Registered) - CDNR
  - 9A - Amended B2B Invoice - B2BA
  - 9C - Amended Credit/ Debit Notes (Registered) – CDNRA



- The option to upload details in IFF can be availed till 13th of the subsequent month. Any invoices remaining to be furnished, can be filed using the IFF in the subsequent month IFF or in the quarterly Form GSTR-1. For e.g. for Apr-June qtr., B2B invoices for the month of April (M1) can be filed in IFF by a taxpayer till 13th May. Any IFF which is not filed till the due date of 13th of the subsequent month will expire.
- IFF is an optional facility provided to taxpayers under QRMP scheme to pass on Input Tax Credit (ITC) to their recipients for M1 and M2 months of a quarter. However, filing of Form GSTR-1 for M3 month of a quarter is mandatory.



**THANK YOU**