



# GST Update

Weekly Update  
02.06.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 26.05.2018. 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

- Two Central Tax Notifications issued.
- One Central Tax (Rate) & one Integrated Tax (Rate) & one Union Territory Tax (Rate) notifications issued
- One Circular dated 30.05.2018 issued, clarifying refund issues
- One Customs Circular issued on refund of IGST
- Three CBIC Press releases issued



# Special Drive Refund Fortnight from 31.05.2018 to 14.06.2018



- [http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press Release 30.05.18.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press%20Release%2030.05.18.pdf)
- In order to liquidate the pendency, Government is starting a second “Special drive Refund Fortnight” from 31st May 2018 to 14th June 2018.
- It would facilitate all types of Refund claims in which Customs, Central and State GST officers will strive to clear all GST refund applications received on or before 30.04.2018. This will include refunds of IGST paid on exports, refunds of unutilized ITC and all other GST refunds submitted in FORM GST RFD-01A.



## Special Drive Refund Fortnight from 31.05.2018 to 14.06.2018 (Contd)



- The refund application in FORM GST RFD-01A will not be processed unless a copy of the application, along with all supporting documents, is submitted to the jurisdictional tax office. Mere online submission is not sufficient.
- In case the jurisdiction (i.e. Centre or State) has not been defined for a particular claimant, a GST refund claimants can approach either of the jurisdictional tax authorities.
- All IGST refund claimants may register on ICEGATE website, if not already done, to check their refund status.
- Exporters are requested to come forward and avail of the opportunity to get the refunds sanctioned during this special drive.

## Clarifications on Refund



- [http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular\\_No.45.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_No.45.pdf)
- Circular No. 45/19/2018-GST dated 30.05.2018 issued
- **Claim for refund of cash balance in cash ledger by ISD, Composition Dealer & Non Resident Taxpayer**
- In case of a claim for refund of balance in the electronic cash ledger filed by an ISD or a composition taxpayer; and the claim for refund of balance in the electronic cash and/or credit ledger by a non-resident taxable person, the filing of the details in FORM GSTR-1 and the return in FORM GSTR-3B is not mandatory.
- Instead, the return in FORM GSTR-4 filed by a composition taxpayer, the details in FORM GSTR-6 filed by an ISD and the return in FORM GSTR-5 filed by a non-resident taxable person shall be sufficient for claiming the said refund

## Clarifications on Refund (Contd)

- **Application for refund of integrated tax paid on export of services and supplies made to a Special Economic Zone developer or a Special Economic Zone unit:**
- Certain errors committed by registered persons at the time of filing GSTR 3B showed supplies to SEZ unit/Developer on payment of IGST in column 3.1(a) instead of 3.1(b) of GSTR-3B whilst they have shown the correct details in Table 6A or 6B of FORM GSTR-1 for the relevant tax period and duly discharged their tax liabilities.
- Such persons unable to file GST RFD-01A for claim of refund because of inbuilt validation mechanism which restricts refund claim to amount figuring in 3.1(b) of GSTR-3(b)

## Clarifications on Refund (Contd)



- **Application for refund of integrated tax paid on export of services and supplies made to a Special Economic Zone developer or a Special Economic Zone unit:**
- It is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file the refund application in FORM GST RFD-01A on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.



## Clarifications on Refund (Contd)



- Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess:
- Doubts have been raised whether an exporter is eligible to claim refund of unutilized input tax credit of **compensation cess paid on inputs**, where the final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminium products, whereas cess is not levied on aluminium products.
  - Section 16(2) of IGST Act states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies.
  - Vide section 11 (2) of the Cess Act, section 16 of the IGST Act is mutatis mutandis made applicable to inter-State supplies of all such goods and services
  - Thus, all supplies of such goods and services are zero rated

## Clarifications on Refund (Contd)



- **Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess:**
- Moreover, as section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal. It is clarified that a registered person making zero rated supply of aluminium products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal.
- Such registered persons may also make zero-rated supply of aluminium products on payment of integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.

## Clarifications on Refund (Contd)



- **Whether bond or Letter of Undertaking (LUT) is required in the case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods.**
- In case of zero rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any.
- Further, the exporter would be eligible for refund of unutilized input tax credit of central tax, state tax, union territory tax, integrated tax and compensation cess in such cases.

## Clarifications on Refund (Contd)



- **What is the scope of the restriction imposed by rule 96(10) of the CGST Rules, regarding non-availment of the benefit of notification Nos. 48/2017-Central Tax dated the 18.10.2017, 40/2017-Central Tax (Rate) dated 23.10.2017, 41/2017-Integrated Tax (Rate) dated 23.10.2017, 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017?**
- Rule 96(10) of the CGST Rules seeks to prevent an exporter, who is receiving goods from suppliers availing the benefit of certain specified notifications under which they supply goods without payment of tax or at reduced rate of tax, from exporting goods under payment of integrated tax. This is to ensure that the exporter does not utilise the input tax credit availed on other domestic supplies received for making the payment of integrated tax on export of goods

## Clarifications on Refund (Contd)

- **Scope of the restriction imposed by rule 96(10) of the CGST Rules**
- However, the said restriction is not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for making their outward supplies. Further, the said restriction is also not applicable to an exporter who has procured goods from suppliers who have, in turn, received goods from registered persons availing the benefits of these notifications since the exporter did not directly procure these goods without payment of tax or at reduced rate of tax.
- Thus, the restriction under Rule 96(10) of the CGST Rules is only applicable to those exporters who are directly receiving goods from those suppliers who are availing the benefit under the specified notifications.

- **Scope of the restriction imposed by rule 96(10) of the CGST Rules**
- Further, there might be a scenario where a manufacturer might have imported capital goods by availing the benefit of Notification No. 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017. Thereafter, goods manufactured from such capital goods may be supplied to an exporter.
- It is hereby clarified that this restriction does not apply to such inward supplies of an exporter



## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems



- <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2018/circ12-2018cs.pdf>
- A validation has been introduced in the GSTN system to ensure that the IGST paid on the export goods in any particular month [3.1(b)] is not less than the refund claimed by the exporter [Table 6A]. However, this validation has failed in number of cases, due to inadvertent mistakes in filing GSTR-1 and GSTR-3B
- An interim solution subject to undertakings/ submission of CA certificates by the exporters and post refund audit scrutiny has been introduced





## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- **Cases where there is no short payment:**
- The Customs policy wing would prepare a list of exporters whose cumulative IGST amount paid against exports and interstate domestic outward supplies, for the period July' 2017 to March' 2018 mentioned in GSTR-3B is greater than or equal to the cumulative IGST amount indicated in GSTR-1 for the same period. Customs policy wing shall send this list to GSTN
- GSTN shall send a confirmatory e-mail to these exporters regarding the transmission of records to Customs EDI system.





## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- The exporters whose refunds are processed/ sanctioned would be required to submit a certificate from Chartered Accountant before 31st October, 2018 to the Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export for submission of the said certificate
- The list of exporters whose refunds have been processed as above shall be sent to DG (Audit)/ DG (GST) by the Board



## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- **Cases where there is short payment:**
- In cases where there is a short payment of IGST i.e. cumulative IGST amount paid against exports and interstate domestic outward supplies together, for the period of July' 2017 to March' 2018 mentioned in GSTR-3B is less than the cumulative IGST amount indicated in GSTR-1 for the same period, the Customs policy wing would send the list of such exporters to the GSTN and all the Chief Commissioner of Customs.
- e-mails shall be sent by GSTN to each exporter referred in para (i) above so as to inform the exporter that their records are held up due to short payment of IGST. The e--mail shall also advise the exporters to observe the procedure under this circular



## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- The exporters would have to make the payment of IGST equal to the short payment in GSTR 3B of subsequent months so as to ensure that the total IGST refund being claimed in the Shipping Bill/GSTR-1(Table 6A) is paid. The proof of payment shall be submitted to Assistant/Deputy Commissioner of Customs in charge of port from where the exports were made. In case there are exports from multiple ports, the exporter is at liberty to choose any of the ports of export.



## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- The exporter shall submit proof of payment (self-certified copy of challans) of IGST payment to the concerned Customs office at the port of export.
- However, where the aggregate IGST refund amount for the said period is more than Rs. 10 lacs, the exporter shall also submit certificate from chartered Account that the shortfall amount has been liquidated.
- The exporter would give an undertaking they would return the refund amount in case it is found to be not due to them at a later date.



## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- The Customs zones shall compile the list of exporters (GSTIN only), who have come forward to claim refund after making requisite payment of IGST towards short paid amount and complied with other prescribed requirements.
- The compiled list may be forwarded to Customs policy wing, DG (Audit) and DG (GST). Customs policy wing shall forward the said list of GSTINs to GSTN.
- On receipt of the list of exporters from Customs policy wing, GSTN shall transmit the records of those exporters to Customs EDI system.



## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- The exporters whose refunds are processed/ sanctioned as above would be required to submit another certificate from Chartered Accountant before 31st October, 2018 to the same Customs office at the port of export to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018.
- A copy of the certificate shall also be submitted to the jurisdictional GST office (Central/ State).



## Pending IGST refund claims where the records have not been transmitted from the GSTN to DG Systems(Contd)



- **Post refund audit**
- The exporters would be subjected to a post refund audit under the GST law. DG (Audit) shall include the above referred GSTINs for conducting Audit under the GST law. The inclusion of IGST refund aspects in Audit Plan of those units may be ensured by DG (Audit).
- DG (GST) shall send the list of exporters to jurisdictional GST officers (both Centre / State) informing that these exporters have taken benefit of the procedure prescribed in this circular. The jurisdictional GST formations shall also verify the payment particulars at their end.



## Time limit to furnish GSTR-6 by ISD for July 17 to June 18 extended



- [http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-25-2018-central\\_tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-25-2018-central_tax-English.pdf)
- Notification 25/2018-Central Tax dated 31.05.2018 issued.
- Notification extends time limit for filing of monthly returns (GSTR 6) by Input Service Distributors (ISD)
- Time limit for the months July 2017 to June 2018 extended till 31.07.2018





## Reverse Charge on supply of goods (Priority Sector Lending Certificate)



- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-11-2018-cgst-rate-english.pdf>
- Notification 11/2018-Central Tax (Rate) & 12/2018 Integrated Tax (Rate) dated 28.05.2018 issued; Notification No. 11/2018-Union Territory Tax (Rate) dated 28.5.18 also issued.
- Notification amends notifications 04/2017-Central Tax (Rate) & 04/2017 Integrated Tax (Rate) dated 28.06.2017, which specifies liability under reverse charge in respect of supply of certain category of goods.
- Tax in case of supply of Priority Sector Lending Certificate(PSLC) by any registered person, shall be payable under reverse charge in terms of Section 9(3) of the CGST Act

# Clarification on agriculture related services



- <http://www.cbic.gov.in/resources//htdocs-cbec/press-release/CBIC%20Press%20Pelease%20dt%2028.05.18.pdf>
- Support services to agriculture, forestry, fishing or animal husbandry are exempt from GST. Such exempted support services include renting or leasing of vacant land with or without a structure incidental to its use. Thus, renting or leasing of land by farmers for agriculture, forestry, fishing or animal husbandry on batai (share cropping) or otherwise is exempt from GST.



## Clarification on agriculture related services (Contd)



- Further, agriculturists are exempted from taking GST registration.
- Agriculturist has been defined to mean an individual or an HUF who undertakes cultivation of landa)
  - by own labour
  - by the labour of family
  - by servants or wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.



## NACIN notified as the authority for conducting the examination for GSTP under rule 83 (3) of the CGST Rules, 2017.



- [http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-24-2018-central tax-English.pdf](http://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-24-2018-central%20tax-English.pdf)
- Notification 24/2018-Central Tax dated 28.05.2018 issued.
- Commissioner, CBIC on the recommendations of the Council, has notified the National Academy of Customs, Indirect Taxes and Narcotics (NACIN), Department of Revenue, Ministry of Finance, Government of India, as the authority to conduct the examination of GST Practitioners as per Rule 83(3) of CGST Rules.

**National Academy of Customs, Indirect Taxes and Narcotics (NACIN)**



# E Way Bill Updates

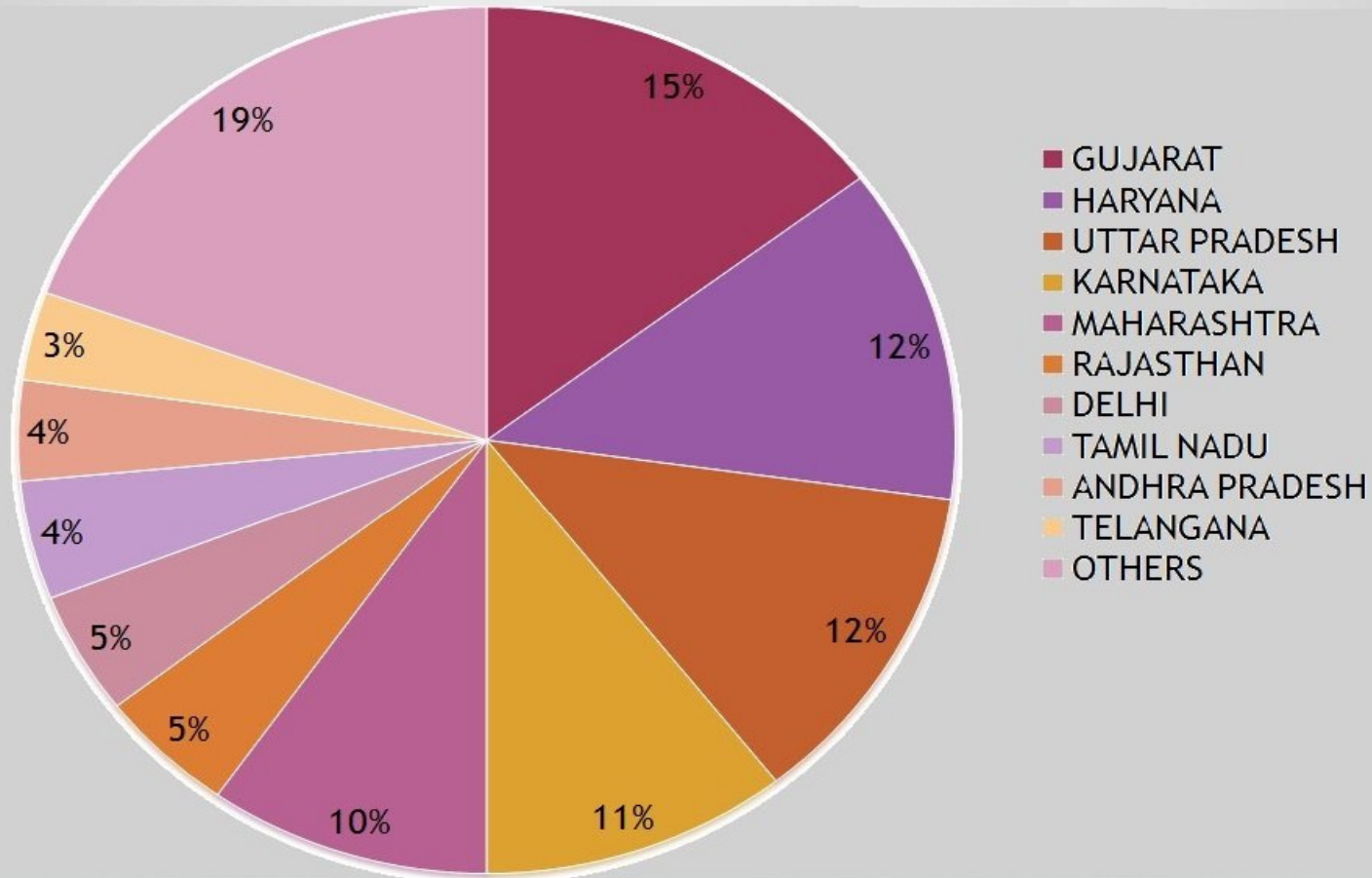
National Academy of Customs, Indirect Taxes and Narcotics (NACIN)



## E-way Bill for Intra-State movement



- <http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press Note E-way Bill 31 may.pdf>
- E-Way Bill system for intra-State movement of goods will be implemented throughout the country latest by 03rd June, 2018
  - Chhattisgarh, Goa, Jammu & Kashmir, Mizoram, Odisha & Punjab..... 1<sup>st</sup> June, 2018
  - Tamil Nadu..... 2<sup>nd</sup> June, 2018
  - West Bengal ..... 3<sup>rd</sup> June, 2018
- Till 30th May, 2018 more than six crore and thirty lakh e-Way Bills have been successfully generated which includes more than two crore e-Way Bills for intra-State movement of goods.



**TOP 10 E-WAY BILL GENERATING STATES IN MAY' 2018**



# GST LEGAL UPDATES

National Academy of Customs, Indirect Taxes and Narcotics (NACIN)





## Goods detained under detention notice cannot be released without furnishing of security



- **Case reported in 2018-TIOL-40-HC-Kerala in the case of Kairali Granites Vs Assistant State Tax Officer** - A consignment of marble, granite slabs & tiles was detained - Later, detention notice was issued to the assessee u/s 129(3) of the CGST Act, 2017 - The assessee claimed that the defect was purely technical - That the vehicle details were not updated in the e-Way bills - The assessee claimed that such defect did not warrant detention of goods, particularly without there being any evasion of tax.
- **The HC held that Goods detained under a detention notice issued under CGST or SGST, cannot be released without furnishing security equivalent to the duty demand raised - Hence assessee directed to deposit bank guarantee, upon payment of which, the goods & vehicle would be released - Department to then adjudicate upon imposition of penalty.**

## **Goods & Vehicles detained to be released only upon compliance with Rule 140 of GST Rules**



- **Case reported in 2018-TIOL-39-HC-Kerala in the case of State Tax Officer (INT) Vs Kerala Gujarat Cargo Express- GST – Alleged evasion of SGST and CGST - Single Judge ordered release of the vehicle and goods by executing a simple bond - State has challenged the order contending that it is passed overlooking Rule 140 of the SGST Rules.**
- **The HC (Division Bench) held that on a reading of Rule 140, it is of the view -In the absence of any challenge against the rules, the goods and vehicle can be released only in accordance with Rule 140 - Therefore, interim order modified directing to release the goods and vehicle either on furnishing the bank guarantee or depositing the amount demanded - Writ Appeal disposed: High Court**



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**