

# GST Update

Weekly Update  
06.02.2021

# Background

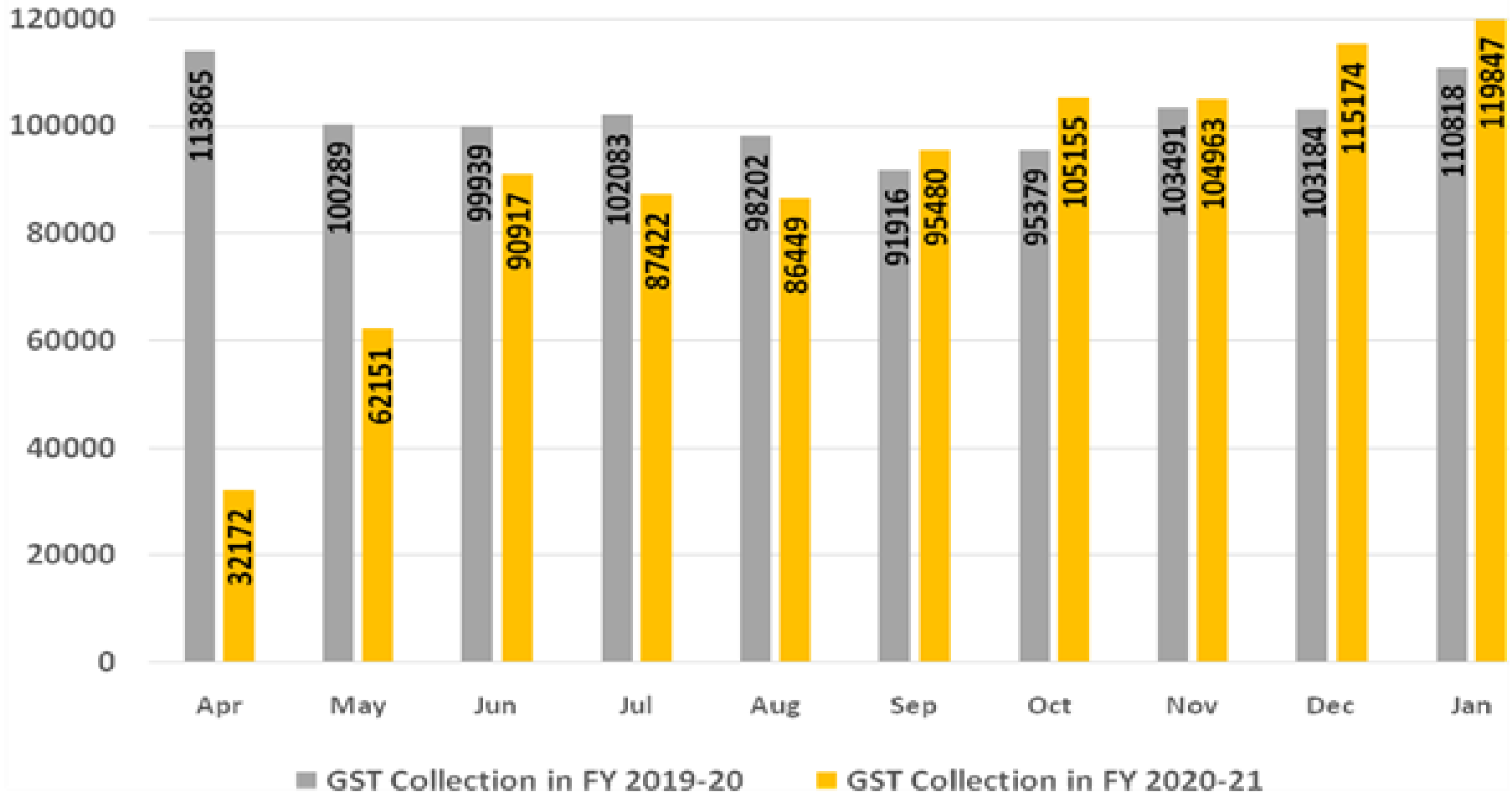
- This Presentation covers the GST changes / observations/ press releases released by CBEC since the last update on 02.01.2021. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications, except the provisions related solely to SGST provisions. Similar parallel provisions in State Laws may be referred to as required

# GST Revenue for January 2021

- <https://pib.gov.in> Press release dated 31<sup>st</sup> January 2021
- The gross GST revenue collected in the month of January 2021 till 6PM on 31.01.2021 is ₹ **1,19,847 crore** of which CGST is ₹ **21,923 crore**, SGST is ₹ **29,014 crore**, IGST is ₹ **60,288 crore** (including ₹ 27,424 crore collected on import of goods) and Cess is ₹ **8,622 crore** (including ₹ 883 crore collected on import of goods). The total number of GSTR-3B Returns filed for the month of December up to 31<sup>st</sup> January 2021 is 90 lakhs.
- The revenues for January 2021 are **8% higher** than the GST revenues in the same month last year. During the month, revenues from import of goods are **16% higher** and the revenues from domestic transaction (including import of services) are **6% higher** than the revenues from these sources during the same month last year.

# GST Revenue for January 2021 (Contd)

Trends in GST Collection in Rs. crore



# Proposed amendments to CGST Act, 2017

## Budget 2021

# GST on supply by clubs, associations etc to its members

- Section 7(1)(aa) and an explanation clause proposed to be inserted in the CGST Act, retrospectively with effect from the 1st July 2017,
  - To ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
- The person (Other than an individual) and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another

# GST on supply by clubs, associations etc to its members (Contd)

- Further, paragraph 7 in Schedule II has been proposed to be omitted w.e.f 1<sup>st</sup> July 2017. It reads as; “
- ~~7. Supply of Goods The following shall be treated as supply of goods, namely:—~~
- ~~Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration~~

# Conditions for claiming ITC

- Section 16(2)(aa) inserted in CGST Act, 2017
- Condition for claiming ITC
- The details of the invoice or debit note referred to in clause 16(2)(a) has been furnished by the supplier in the statement of outward supplies (GSTR-1) and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37.
- Thus, ITC to be taken only for those invoices whose details are reflected in GSTR-2A/ 2B i.e the respective suppliers (vendors) have filed their GSTR-1



# Audit under GST

- **Section 35(5) proposed to be omitted**
- No requirement for the taxpayers to get books of accounts audited by a CA or CMA
- A registered person will have to self comply
  
- **Section 44 proposed to be substituted**
- Responsibility of reconciliation shifts to the taxpayer; the taxpayer liable for filing annual return required to self-certify the reconciliation statement.
- Due date for filing of Annual Return will be prescribed by way of notifying rules ( Earlier provided in the Act itself)

# Interest

- Proviso to section 50(1) substituted
- Interest will be on net cash liability and not on gross tax liability
- This amendment has been proposed with retrospective effect i.e., w.e.f 01.07.2017.

- Explanation clause to section 74(1)(ii) substituted-
- *(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, ~~129 and 130~~ are deemed to be concluded.*
- Thus, conclusion of proceedings will lead to conclusion of proceedings u/s. 73 or 74 and the proceedings u/s. 122 and 125 but not the proceedings u/s. 129 and 130.
- This makes seizure and confiscation of goods and conveyances in transit a separate proceeding from the recovery of tax

# Self assessed tax

- Explanation clause to section 75(12) inserted-
- Explanation.—For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.
- Thus, recovery can straight away be initiated by the officer for the outward supply liability shown in the statement filled u/s 37, if not reflecting in the GSTR-3B

# Provisional Attachment under section 83

- Section 83(1) substituted
- Where **after the initiation** ~~during the pendency~~ of any proceedings under ~~section 62 or section 63 or section 64 or section 67 or section 73 or section 74~~ **Chapter XII, Chapter XIV or Chapter XV** the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person **or any person specified in subsection (1A) of section 122**, in such manner as may be prescribed

# Appeal in case of detention and seizure of goods and conveyance

- Section 107(6) inserted
- *Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.*
- The pre-deposit prior to this amendment was only to the extent of 10% of Tax Liability in case of dispute which is now proposed to be 25% of the penalty amount in case of detention and seizure of goods and conveyance during transit

## Changes in section 129

- Section 129(1) (a) & (b) substituted as-
- (a) on payment of ~~applicable tax and~~ penalty equal to ~~one~~ **two** hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty
- (b) on payment of ~~applicable tax and~~ penalty equal to fifty per cent of the value of the goods ~~reduced by the tax amount paid thereon~~ ~~and~~ or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty”

## Changes in section 129 (Contd)

- Section 129 (2) deleted; Section 129(3) & (4) substituted as-
- ~~(2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.~~
- (3) The proper officer detaining or seizing goods or conveyance shall issue a notice **within seven days** of such detention or seizure, specifying the ~~tax and~~ penalty payable, and thereafter, pass an order **within a period of seven days from the date of service of such notice**, for payment of penalty under clause (a) or clause (b) of sub-section (1).”
- (4) No ~~tax, interest or~~ penalty shall be determined under sub section (3) without giving the person concerned an opportunity of being heard.



## Changes in section 129 (Contd)

- Section 129(6) substituted as under:
- *Where the person transporting any goods or the owner of such goods fails to pay the amount of ~~tax and~~ penalty under sub-section (1) within ~~fourteen of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130~~ fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3)*

## Changes in section 129 (Contd)

- 1<sup>st</sup> Proviso to Section 129 inserted as-
- ***Provided that the conveyance shall be released on payment by the transporter of penalty under subsection (3) or one lakh rupees, whichever is less***
- 2<sup>nd</sup> proviso to section 129 substituted as -
- *Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of ~~fourteen~~ fifteen days may be reduced by the proper officer.*

## Changes in section 129 (Contd)

- Instead of 100% tax and 100% penalty, now penalty of 200% of tax payable is applicable
- To file appeal, 25% of penalty i.e 50% of tax amount
- Transporter can get the conveyance released on payment of penalty or Rs. 1 lakh w/ever is less
- The proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit, delinked from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.

# Changes in section 130



- The proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty delinked from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.
- Penalty of 100% of tax payable is applicable ( Section 130 (2) amended)

- Section 151 of the CGST Act 2017 amended so as to empower the jurisdictional commissioner to call for information from any person relating to any matters dealt with in connection with the Act
- Section 168 of the CGST Act, 2017 amended so as to enable the jurisdictional commissioner to exercise powers under section 151 to call for information
- Section 152(1) of the CGST Act, 2017 amended so as to provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned

# Proposed amendments to IGST Act, 2017

## Budget 2021

## Zero rating : Section 16(1)(b)

- Section 16(1)(b) substituted
- (b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit
- Thus, benefit of zero rating will be available only to the supplies of SEZ developer or SEZ Unit which are for authorised operations and not for any other supplies

## Refunds on exports: Section 16(3)

- Section 16(3) substituted
- Only notified class of taxpayer/notified class of goods/services shall be eligible for claiming refund in case the supplies are made with payment of tax. ( IGST Refund)
- Recovery of refund claimed on account of zero-rated supplies, in case of non-realization of sale proceeds within the stipulated time prescribed under FEMA
- Government may restrict zero-rated supply on payment of IGST and claim refund of IGST so paid only to , -
  - Specified class of persons;
  - Class of goods or services





# GST Portal Updates

# QRMP Scheme

- <https://www.gst.gov.in/newsandupdates/read/447>
- In fixed sum method, the 35% Challan can be generated by selecting the **Reason For Challan>Monthly Payment for Quarterly Return> 35% Challan** which is in turn calculated as per following situation:
  - a. 35% of amount paid as tax from Electronic Cash Ledger in their preceding quarter GSTR 3B return, if it was furnished on **quarterly basis**; or
  - b. 100% of the amount paid as tax from Electronic Cash Ledger in their GSTR-3B return for the last month of the immediately preceding quarter, if it was furnished **on monthly basis**.
- It is to note that , for the months of Jan and Feb, 2021, in Q4 of 2020-21, the auto-populated challan generated under 35% Challan would contain 100% of the tax liability discharged from Electronic Cash Ledger for the month of December, 2020 (and not 35%). [**Reason: Till December 2020, all taxpayers were filing GSTR-3B return on a monthly basis.**]
- From April 2021 onwards, the pattern as suggested at (a) and (b) would follow.

# Refund in QRMP Scheme

- [https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities\\_deployed%20 jan 2021.pdf](https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities_deployed%20jan_2021.pdf)
- **Filing of Refund application by taxpayers under QRMP scheme**
- All taxpayers who have opted for or assigned quarterly filing of Form GSTR-3B in QRMP scheme, will now be allowed to claim refund on quarterly basis only
- If such taxpayer chooses a period other than Quarterly, while filing a refund application, they will be shown an error message and will not be allowed to proceed with filing of Refund application on the GST Portal

# GePP - GST e -Invoice Preparing and Printing Tool



- [https://einvoice1.gst.gov.in/Documents/Gepp\\_Tool\\_Note.pdf](https://einvoice1.gst.gov.in/Documents/Gepp_Tool_Note.pdf)
- NIC has releases 'NIC-GST e-invoice Preparing and Printing' (NIC-GePP Ver. 1.0).
- This is an excel based Tool to assist the taxpayers, who are not having the ERP solution, to enter invoice in a user-friendly form and print the e-invoice with QR code, after downloading the IRN from e-invoice portal.
- Salient Features of the Tool:
  - Simple form for entering the invoices one by one
  - Creation of Supplier profile
  - Creation of Recipient masters
  - Creation of HSN masters
  - Preparation of e-Invoice JSON file
  - Generation of IRN
  - Downloading and Importing of QR code in the tool
  - Printing of e-Invoice from the tool.

# GePP - GST e -Invoice Preparing and Printing Tool ( Contd)

- **Benefits**

- Assists the taxpayers to prepare and print the e-invoice with QR code
- Facilitates exchange of the data with the e-invoice system as per the interface format.
- Suitable for taxpayers not having the ERP system or issuing 10-12 invoices (B2B and Export) per day
- Presently, the tool is available in e-invoice trial portal under (<https://einvoice1.gst.gov.in>) under Help → Tools → Bulk Generation Tools. Download the tool by registering your GSTIN or mobile number. You may refer the video and user manual for more information
- Note: Use a separate instance of the GePP tool for each GSTIN

# New Functionality

- [https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities\\_deployed%20 jan 2021.pdf](https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities_deployed%20jan_2021.pdf)
- **Filing appeal against Refund order in Form GST APL 01**
- Any taxpayer or an unregistered person aggrieved by any decision or order passed against him/her by an adjudicating authority, may appeal to the Appellate Authority, within three months from the date, on which the decision or order is communicated to him/her.
- This functionality has now been deployed on the GST Portal, to file online appeal against the refund order, with the respective Appellate Authority.

- [https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities\\_deployed%20 jan 2021.pdf](https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities_deployed%20jan_2021.pdf)
- **Notice in Form GSTR-3A for Non-Filing of GSTR-3B Returns**
- Section 46 of the GST Act provides for issue of notice to return defaulter. The said notice to return defaulters in Form GSTR-3A have been issued through System for the defaulters of GSTR-3B return for the tax period of November 2020.
- If the defaulters fail to file return within fifteen days of the issue of the said notice, the list of defaulters shall be made available on the dashboard of tax authorities in Assessment / Adjudication module for framing assessment under section 62.”

# New Functionality

- [https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities\\_deployed%20 jan 2021.pdf](https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities_deployed%20jan_2021.pdf)
- **Allowing reporting of GSTINs and tax deducted of OIDARs, in Form GSTR-7, by TDS deductors**
- Earlier, reporting of GSTINs of OIDAR registrants was not allowed in Form GSTR-7, for reporting of tax deduction made by the Deductor.
- The same has now been enabled on the GST Portal. The TDS deducted will be credited to the cash ledger of the OIDAR supplier on acceptance.



- [https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities\\_deployed%20 jan\\_2021.pdf](https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities_deployed%20jan_2021.pdf)
- **Aadhaar Authentication and eKYC changes for Existing Taxpayers**
- Aadhaar Authentication for one Promoter and Primary authorized signatory has been implemented on the portal for existing taxpayers.
- The existing registered taxpayer, after login at GST portal will be shown a popup with Question “Would you like to authenticate Aadhaar of the Partner/Promotor and Primary Authorized Signatory “with the two options “Yes, navigate to My Profile” and “Remind me later”.

# New Functionality

- [https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities\\_deployed%20 jan 2021.pdf](https://tutorial.gst.gov.in/downloads/news/taxpayerfunctionalities_deployed%20jan_2021.pdf)
- **Field for capturing validity period, in case of SEZ unit and SEZ developers, in Form GST REG-01**
- Persons applying for Registration in Form GST REG-01 as SEZ unit and SEZ developer would now be required to provide the validity period, as per Letter of Approval (LOA)/Letter of Permission (LOP).
- The information related to expiry of validity period would be made available to Tax Officials, in case it is not extended by the tax-payer, after its expiry. The GST system would prompt tax officer for action in such cases.
- The taxpayer can now interchange their status as SEZ unit or SEZ developer, through an application of Core amendment of registration.



**THANK YOU**