

# GST Update

Weekly Update  
09.03.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 23.02.2019. It supplements the earlier GST Updates.
- No update was released for the week ended on 02.03.2019, since no circular/ notification was issued during that week.
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

- Five Central Tax and one Central Tax (Rate) Notifications issued
- Two CBIC GST Circulars issued;
- One Corrigendum to Circular No. 76/50/2018-GST issued
- One CGST Removal of Difficulties Order issued
- New Return formats released on the GST Portal

# Threshold limit for registration (Effective from 1<sup>st</sup> April, 2019)

- **Notification No. 10/2019-Central Tax dated 7<sup>th</sup> March, 2019**
- Threshold limit for registration ( For those engaged in exclusive supply of goods-
  - **Enhanced to Rs. 40 lacs**
  - Except persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand
  - Except persons required to take compulsory registration under section 24
  - Except suppliers of Ice cream and other edible ice, whether or not containing cocoa; Pan masala; Tobacco and manufactured tobacco substitutes
- The **threshold for registration for service providers** would continue to be Rs 20 lakhs and in case of Special category States Rs 10 lakhs

# Special procedure for Statement of outward supplies ( GSTR-1) for Small taxpayers

- **Notification No. 11/2019 – Central Tax dated 7<sup>th</sup> March, 2019**
- Time Period for filing GSTR-1 for Registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year
- For the Period April-June, 2019
  - 31<sup>st</sup> July, 2019

# Last Date for GSTR-1

- **Notification No. 12/2019 – Central Tax dated 7<sup>th</sup> March, 2019**
- The time limit for furnishing the details of outward supplies in FORM GSTR-1 under the CGST Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for
- The months from April, 2019 to June, 2019
- Till the 11<sup>th</sup> of the month succeeding such month

## Last date for GSTR-3B

- **Notification No. 13/2019 – Central Tax dated 7<sup>th</sup> March, 2019**
- The return in FORM GSTR-3B of the CGST Rules, 2017 for each of the months from April, 2019 to June, 2019, shall be furnished
  - On or before the 20<sup>th</sup> of the month succeeding such month.
- Liability towards tax, interest, penalty, fees or any other amount payable under the CGST Act also to be paid
  - On or before the 20<sup>th</sup> of the month succeeding such month.

# Threshold Limit Composition Scheme (Effective from 1<sup>st</sup> April, 2019)

- **Notification No. 14/2019 – Central Tax dated 7<sup>th</sup> March, 2019**
- Threshold Limit for the composition scheme enhanced to
  - Rs. 1.5 crore, for all States except
  - Rs. 75 lacs for (i) Arunachal Pradesh, (ii) Manipur, (iii) Meghalaya, (iv) Mizoram, (v) Nagaland, (vi) Sikkim, (vii) Tripura, (viii) Uttarakhand:
- This shall **come into force on the 1st day of April, 2019.**



# Composition Scheme for Services (Effective from 1<sup>st</sup> April, 2019)

- **Notification No. 2/2019-Central Tax (Rate) dated 7<sup>th</sup> March, 2019**
- First supplies of goods or services or both up to an aggregate turnover of **fifty lakh rupees** made on or after the 1st day of April in any financial year, by a registered person
- Shall be liable to pay central tax at the rate of three percent on all outward supplies ( Total 6%)

# Composition Scheme for Services (Contd) (Effective from 1<sup>st</sup> April, 2019)

- **Conditions:**
- Not engaged in making any supply which is not leviable to tax under the CGST Act
- Not engaged in making any inter-State outward supply
- Neither a casual taxable person nor a non-resident taxable person
- Not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52
- Shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

# Composition Scheme for Services (Contd)

## (Effective from 1<sup>st</sup> April, 2019)

- **Conditions:**
- Shall issue, instead of tax invoice, a **bill of supply** as referred to in clause (c) of sub-section (3) of section 31(3)(c) of the CGST Act with particulars as prescribed in rule 49 of CGST Rules.
- The registered person shall mention the following words at the top of the bill of supply, namely: - ‘taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies’.
- Shall be liable to pay central tax on inward supplies on which he is liable to pay tax under Section 9(3) or 9(4) of CGST Act at the applicable rates.

# Composition Scheme for Services (Contd)

## (Effective from 1<sup>st</sup> April, 2019)

Explanation:

**“First supplies of goods or services or both”** shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

# Composition Scheme for Services (Contd)

## (Effective from 1<sup>st</sup> Thus, April, 2019)

- **Removal of Difficulty Order No. 3/2019-Central Tax dated 8<sup>th</sup> March, 2019**
- The provisions of Section 31(3)(c) of the CGST Act, 2017 shall apply to a person paying tax under Notification No. 2/2019-Central Tax (Rate) dated 07.03.2019 ( Composition Scheme for Services)
- Section 31(3)(c) provides for issue of bill of supply by composition taxpayers. Thus, instead of a tax invoice, a bill of supply will be issued by a person opting for composition scheme for services.

# Nature of Supply of Priority Sector Lending Certificates (PSLC)

- **Circular No. 93/12/2019-GST dated 8<sup>th</sup> March, 2019**
- Trading of PSLC by the banks on e-Kuber portal of RBI
- Nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce.
- Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI
- However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply.

# **GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961**

- **Corrigendum to Circular No. 76/50/2018-GST dated 7th March, 2019**
- **What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?**
- *Section 15(2) of CGST Act specifies that the value of supply shall include “any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.”*
- *For the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.*

- **Circular No. 92/11/2019-GST dated 7<sup>th</sup> March, 2019**
- **Free samples and gifts**
- Samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.
- Further as per section 17(5)(h) of the CGST Act, 2017, ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.



# Sales Promotion Schemes in GST (Contd)

- **Buy one get one free offer**
- It is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.
- Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.
- ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

# Sales Promotion Schemes in GST (Contd)

- **Discounts including ‘Buy more, save more’ offers**
- Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.
- Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end.

# Sales Promotion Schemes in GST (Contd)

- **Discounts including ‘Buy more, save more’ offers**
- In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.
- Discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3) of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

# Sales Promotion Schemes in GST (Contd)

- **Secondary Discounts**
- These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.
- It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in section 15(3)(b) of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

# Sales Promotion Schemes in GST (Contd)

- **Secondary Discounts**
- However, such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in section 15(3)(b) of the said Act are not satisfied.
- In other words, value of supply shall not include any discount by way of issuance of credit note(s), except in cases where the provisions contained in section 15(3)(b) of the said Act are satisfied.
- There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

# Proposed New Return

- The proposed new return documents- All three types released on the GST Portal to enable various stakeholders in adapting their systems to make them compatible with the proposed return format and business processes
- The new forms would begin on pilot basis from 1<sup>st</sup> April, 2019 and would be mandated across the country from July, 2019
- The new return formats are named normal, sahaj and sugam
- The taxpayers opting to file quarterly return( Turnover up to Rs. 5 crore) can choose to file any of the quarterly return namely – Sahaj, Sugam or Quarterly (Normal).

# Proposed New Return

- Normal Return - FORM GST RET-1 (Shall be able to declare all types of outward supplies, inward supplies and take credit on missing invoices)
  - Monthly Normal
  - Quarterly Normal
- Sahaj Return – FORM GST RET-2 ( Quarterly)
  - Outward supply under B2C category and inward supplies attracting reverse charge only
- Sugam Return – FORM GST RET-3 ( Quarterly)
  - Outward supply under B2C and B2B category and inward supplies attracting reverse charge only
  - Shall not take credit on missing invoices and shall not be allowed to make any other type of inward or outward supplies

## Intimation of option for return periodicity and type of quarterly return

Sr. No. 1	Description 2	Option	
		3	4
1.	Was your aggregate turnover during the preceding financial year upto Rs. 5.00 Cr.?	<input type="radio"/> Yes	<input type="radio"/> No
2.	If reply is 'Yes' at Sr. No. 1, do you intend to file return on quarterly basis?	<input type="radio"/> Yes	<input type="radio"/> No
3.	If reply is 'Yes' at Sr. No. 2, choose your return -		
	(i) Sahaj	<input type="radio"/> Yes	<input type="radio"/> No
	(ii) Sugam	<input type="radio"/> Yes	<input type="radio"/> No
	(iii) Quarterly (Normal)	<input type="radio"/> Yes	<input type="radio"/> No





# GST Legal Updates

## **Case of Torque Pharmaceuticals Pvt Ltd Vs UOI reported in 2019-TIOL-521-HC-ALL-GST**

The Hon'ble High Court held as under

As the Counsel for GST council as well as that for the State were unable to tell as to whether the Appellate Tribunal has been constituted or not, the matter was listed on 28 February 2019. Two affidavits were filed but it is apparent that promises were being made only in the air; that there seems to be no concrete proposal to set up the Appellate Tribunal; that from the affidavit filed by the State it appears that recommendation has been made to set up a Bench of the Tribunal in Lucknow, which is not in accordance with the apex court ruling in Madras Bar Association -

**Contd....**

- 2014-TIOL-82-SC-MISC-CB which provides that the Tribunal shall be set up at the place where the Principal Bench of the High Court is situated; that since the Principal Bench of the High Court is situated at Allahabad, the said proposal also seems to be another dilatory tactic. On the one hand, the right of appeal is not being given to the petitioner, on the other hand the State and the Centre are both very quick to make recoveries from persons, who have orders against them. A litigant cannot be left without a remedy for reasons that the Government is unable to provide forums. Directions given to both the Centre and the State Governments to file better affidavits giving a cut off date by which they propose to set up the Tribunal. Matter posted on **15th March 2019**.

## 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**