

GST Update

Weekly Update
13.06.2020

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 02.05.2020. No updates were released on 23.05.2020, 30.05.2020 and 06.06.2020. 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

Recommendation of 40th GST Council Meeting

- **Reduction in Late Fee for past Returns:** For all those who have “*no tax liability*” but have not filed GST returns for tax period July 2017 - Jan 2020 (prior to COVID19 period), there shall be no late fee at all.
- **Maximum late fee capped at Rs. 500/- per return:** For people who “have tax liability”, maximum late fee for non-filing of GSTR-3B returns for period Jul 2017 - Jan 2020 has been capped to ₹ 500. This will apply to all returns submitted during Jul 1, 2020 - Sep 30, 2020
- **Relief for small taxpayers for late filing of returns for February, March & April 2020 Tax periods:** For small tax payers whose “aggregate turnover is up to ₹ 5 crore”, the rate of interest for late furnishing of GST returns for Feb, Mar and April 2020, beyond July 6, 2020, the rate of interest is being reduced from 18% to 9%.

Recommendation of 40th GST Council Meeting (Contd)

- **Relief for small taxpayers for subsequent tax periods (May, June & July 2020):** Small tax payers “whose aggregate turnover is up to ₹ 5 crore” will be provided a waiver of late fees and interest if they file the form GSTR-3B for the supplies affected in months of May, June and July 2020, by September 2020, no late fee or interest.
- **One time extension in period for seeking revocation of cancellation of registration:** Taxpayers who could not get cancelled GST registrations restored in time are being given an opportunity to apply for “revocation of cancellation” of registration up to September 30, 2020 - In all cases where registration has been cancelled till June 12, 2020.

Recommendation of 40th GST Council Meeting (Contd)



- A special “one-agenda” GST Council meeting will be held in July 2020 to discuss compensation cess, which has to be given to states, and who should pay for the borrowing, if required.
- Certain clauses of the Finance Act, 2020 amending CGST Act 2017 and IGST Act, 2017 to be brought into force from 30.06.2020.

- **Filing of NIL GSTR-3B through SMS (w.e.f 8th June 2020)**
- Manner of furnishing of return by short messaging service facility: NIL return under section 39 in GSTR 3B can be filled through short messaging service (SMS). For this, Rule 67A inserted in CGST Rules, 2017 vide Notification No. 38/2020 – Central Tax dated 5th May 2020 (Comes into effect w.e.f 8th June 2020)
- *Explanation. - For the purpose of this rule, a Nil return shall mean a return under section 39 for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B.*

Filing of NIL GSTR-3B through SMS (Contd)

- A taxpayer may now file NIL Form GSTR-3B, through an SMS, apart from filing it through online mode, on GST Portal.
- To file NIL Form GSTR-3B through SMS, the taxpayer must fulfill following conditions:
 - They must be registered as Normal taxpayer/ Casual taxpayer/ SEZ Unit / SEZ Developer.
 - They have valid GSTIN.
 - Phone number of Authorized signatory is registered on the GST Portal.
 - There is no pending tax liability for previous tax periods, interest or late fee.
 - All GSTR-3B returns for previous tax periods are filed.

Filing of NIL GSTR-3B through SMS (Contd)

- To file NIL Form GSTR-3B through SMS, the taxpayer must fulfill following conditions:
 - All GSTR-3B returns for previous tax periods are filed.
 - No data should be in saved stage for Form GSTR-3B on the GST Portal, related to that respective month.
 - NIL Form GSTR-3B can be filed anytime on or after the 1st of the subsequent month for which the return is to be filed.
- NIL Form GSTR-3B for a tax period must be filed if the taxpayer:
 - Has NOT made any Outward Supply
 - Do NOT have any reverse charge liability
 - Do NOT intend to take any Input tax credit; and
 - Do NOT have any liability for that particular or previous Tax Periods.

Filing of NIL GSTR-3B through SMS (Contd)

- All the authorized representatives, for a particular GSTIN can file NIL Form GSTR-3B through SMS.
 - If more than one authorized representative/ signatory have the same mobile number registered on the GST Portal, such SMS requests will not be accepted for filing NIL Form GSTR-3B.
 - An SMS and e-mail will be sent on the e-mail and mobile number of the primary authorized signatory.
 - In case, filer of NIL Form GSTR-3B is an authorized signatory, SMS will be sent to his/her mobile number also.
- Taxpayer can file NIL Form GSTR-3B, through SMS for all GSTINs, for whom they are an Authorized Signatory, using same mobile number.

Procedure to file Nil returns by SMS

- **Procedure to file Nil returns by SMS:**
- To initiate NIL GST filing, SMS in the following format
- NIL<space>3B<space>GSTIN<space>Tax period --* and send to number 14409.
- (Example: NIL 3B 09XXXXXXXXXXXXZC 052020)
- Will receive a response message from VD-GSTIND viz.123456 is the CODE for Nil filing of GSTR3B for 09XXXXXXXXXXXXZC for period 052020. *Code validity 30 min.*
- Then confirm the Nil GST filing by replying –
- CNF<space>3B<space>Code*
- (received from VD GSTIND) and send it back to the same number 14409.
- (Example: Type CNF 3B 123456 and send to 14409)

Procedure to file Nil returns by SMS (Contd)

- Will receive the following confirmation message -- Your 09XXXXXXXXXXZC, GSTR3B for 052020 is *filed successfully* and acknowledged vide *ARN is AA070219000384*. which can be used to track the status of the return.
- Helpline - you can SMS -- HELP<Space>3B -- to 14409

Extension of validity of e-way bill

- **Notification No. 47/2020 – Central Tax dated 9th June 2020**
- Extension of validity of e-way bill
- Amends Notification No. 40/2020 – Central Tax dated 05.05.2020 in respect of extension of validity of e-way bill generated on or before 24.03.2020 (whose validity has expired on or after 20th day of March 2020) till the 30th day of June.
- Where an e-way bill has been generated under rule 138 of the CGST Rules, 2017 on or before the 24th day of March, 2020 and whose validity has expired on or after the 20th March, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30th June 2020.

Facility for registration of IRP/RPs made available on the GST Portal

- <https://www.gst.gov.in/newsandupdates/read/377>
- The Insolvency Resolution Professionals/ Resolution Professionals (IRPs/RPs), appointed to undertake corporate insolvency resolution proceedings for Corporate Debtors, can apply for new registration on GST Portal, on behalf of the Corporate Debtors, in each of the States or Union Territories, on the PAN and CIN of the Corporate Debtor, where the corporate debtor was registered earlier, in terms of Notification No. 11/2020-CT, dated 21st March, 2020 and as amended vide Notification No. 39/2020-CT, dated 5th May, 2020. The IRP / RP are required to obtain a new registration within thirty days of their appointment as IRP/RP or by 30th June, 2020, whichever is later, except in cases where the corporate debtors have filed Form GSTR-1 and Form GSTR-3B, for all the tax periods prior to the appointment of IRP/RP.

Facility for registration of IRP/RPs made available on the GST Portal (Contd)

- They should select the Reason for Registration as “Corporate Debtor undergoing the Corporate Insolvency Resolution Process with IRP/RP” from the drop down menu.
- The date of commencement of business for IRP/RPs will be the date of their appointment. Their compliance liabilities will also come into effect from the date of their appointment.
- The person appointed as IRP/RP shall be the Primary Authorized Signatory for the newly registered Company.
- In the Principal Place of business/ Additional place of business, the details as specified in original registration of the Corporate Debtors, is required to be entered.
- The new registration application shall be submitted electronically on GST Portal under DSC of the IRP/RP

Facility for registration of IRP/RPs made available on the GST Portal (Contd)

- The new registration by IRP/RP will be required only once. In case of a change in IRP/RP, after initial appointment, it would be deemed to be change of authorized signatory and not an appointment of a distinct person requiring a fresh registration.
- In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by a non-core amendment in the registration form.
- The change in Primary Authorized Signatory details on the portal can be done either by the authorised signatory of the Company or by the concerned jurisdictional officer (if the previous authorized signatory does not share the credentials with his successor) on request of IRP/RP.

- **Circular No: 140/10/2020 – GST dated 10th June 2020**
- Whether the remuneration paid by companies to their directors falls under the ambit of entry in Schedule III of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) i.e. “services by an employee to the employer in the course of or in relation to his employment” or whether the same are liable to be taxed in terms of notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017 (entry no.6).

GST on Director's remuneration (Contd)

- **Leviability of GST on remuneration paid by companies to the independent directors defined in terms of section 149(6) of the Companies Act, 2013 or those directors who are not the employees of the said company:**
- In respect of such directors, the services provided by them to the Company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable.
- The recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis.

GST on Director's remuneration (Contd)

- **Leviability of GST on remuneration paid by companies to the whole-time directors including managing director who are employees of the said company:**
- Once, it has been ascertained whether a director, irrespective of name and designation, is an employee, it would be pertinent to examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a “contract of service”) or is there any element of “contract for service”.
- Similar identification and treatment of the Director's remuneration is also present in the Income Tax Act, 1961 wherein the salaries paid to directors are subject to TDS under Section 192 of the Income Tax Act, 1961 ('IT Act'). However, in cases where the remuneration is in the nature of professional fees and not salary, the same is liable for deduction under Section 194J of the IT Act.

GST on Director's remuneration (Contd)

- It is clarified that the part of Director's remuneration which are declared as 'Salaries' in the books of a company and subjected to TDS under Section 192 of the IT Act, are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act, 2017
- The part of employee Director's remuneration which is declared separately other than 'salaries' in the Company's accounts and subjected to TDS under Section 194J of the IT Act as Fees for professional or Technical Services shall be treated as consideration for providing services which are outside the scope of Schedule III of the CGST Act, and is therefore, taxable. The recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis.

- **Circular No. 139/09/2020-GST dated 10th June 2020**
- The circular No. 135/05/2020- GST dated 31st March 2020 does not in any way impact the refund of ITC availed on the invoices / documents relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) etc.
- It is hereby clarified that the treatment of refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will continue to be same as it was before the issuance of Circular No. 135/05/2020- GST dated 31st March 2020.

Any ISSUES/ queries?



- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
 - 1800 1200 232
 - 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
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL



THANK YOU