



GST Update

Weekly Update
14.04.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 07.04.2018. 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

- Three Central Tax Circulars issued
- 11 New forms GST MOV-01 to 11 in respect of interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances



Procedure for recovery of arrears under the existing law and reversal of inadmissible input tax



- <http://www.cbec.gov.in/resources//htdocs-cbec/gst/Circular No.42.pdf>
- Circular No:42/16/2018 -Central Tax, dated 13-04-2018;

Following situations covered

1. Recovery of arrears of wrongly availed CENVAT Credit.
2. Recovery of CENVAT Credit carried forward wrongly
3. Recovery of arrears of central excise duty and service tax
4. Recovery of arrears due to revision of return under the existing law

Eight Situations Covered in the Circular (Contd)



5. Recovery of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law and inadmissible transitional credit;
6. Recovery of interest, penalty and late fee payable
7. Payment of central excise duty & service tax on account of returns filed for the past period
8. Recovery of arrears from assesseees under the existing law in cases where such assesseees are not registered under the CGST Act, 2017



Recovery of CENVAT Credit of CE Duty or Service Tax wrongly carried forward



- The CENVAT credit of central excise duty or service tax wrongly carried forward as transitional credit, and
- The arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law
 - shall be recovered as
 - central tax liability to be paid through the utilization of amounts available in the electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01).

Recovery of arrears of interest, penalty and late fee

- The arrears of interest, penalty and late fee in relation to CENVAT credit wrongly carried forward, and
- The arrears of interest, penalty and late fee in relation to arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law
 - shall be recovered
 - as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in electronic cash ledger of the registered person and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01).



Payment of central excise duty & service tax on account of returns filed for the past period



- The registered person may file Central Excise / Service Tax return for the period prior to 1st July, 2017 by logging onto www.aces.gov.in and make payment relating to the same through EASIEST portal (cbec-easiest.gov.in), as per the practice prevalent for the period prior to the introduction of GST.
- However, with effect from 1st of April, 2018, the return filing shall continue on www.aces.gov.in but the payment shall be made through the ICEGATE portal. As the registered person shall be automatically taken to the payment portal on filing of the return, the user interface remains the same for him.



Recovery from unregistered assesseees



- **Recovery of arrears from assesseees under the existing law in cases where such assesseees are not registered under the CGST Act, 2017:**
- Such arrears shall be recovered in cash, under the provisions of the existing law and the payment of the same shall be made through the ICEGATE portal.
- The person shall be automatically taken to the ICEGATE payment portal on filing of the return.



Processing of refund applications for UIN agencies



- http://www.cbec.gov.in/resources//htdocs-cbec/gst/Circular_No.43.pdf
- **Manually providing statement of invoices while submitting the refund application. (RFD-11 does not have invoice wise details)**
 - The print version of FORM GSTR-11 generated by the system does not have invoice-wise details. Therefore, it is clarified that till the system generated FORM GSTR-11 does not have invoice-level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with refund application.
 - The officers are advised not to request for original or hard copy of the invoices unless necessary



Recording of UINs by Suppliers on Invoices



- Recording of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017.
- Many suppliers did not record the UINs on the invoices of supplies of goods or services to UIN agencies.
- If suppliers / vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017, however, one time waiver for past cases is being provided.



One time waiver of condition of UIN on invoices



- The invoices pertaining to refund claims for the quarters of July – September 2017, October – December 2017 and January – March 2018, a one-time waiver is being given by the Government, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency.
- Field officers are advised that the terms of Notification No. 16/2017-Central Tax (Rate) dated 28th June 2017 and corresponding notifications under the IGST Act, 2017, UTGST Act, 2017 and respective SGST Acts should be satisfied while processing such refund claims.



E Way Bill Updates

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

Procedure for interception of conveyances for inspection



- <http://www.cbec.gov.in/resources//htdocs-cbec/gst/Circular No.41.pdf>
- Circular No. 41/15/2018-GST dated 13th April, 2018 issued for outlining procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances
- 11 New forms GST MOV-01 to GST MOV-11 announced vide the above circular

S/No.	Form	Purpose
1	GST MOV-01	STATEMENT OF THE OWNER / DRIVER/ PERSON
2	GST MOV-02	ORDER FOR PHYSICAL VERIFICATION / INSPECTION
3	GST MOV-03	ORDER OF EXTENTION OF TIME FOR INSPECTION
4	GST MOV-04	PHYSICAL VERIFICATION REPORT
5	GST MOV-05	RELEASE ORDER
6	GST MOV-06	ORDER OF DETENTION
7	GST MOV- 07	NOTICE
8	GST MOV -08	FORMAT FOR BOND FOR PROVISIONAL RELEASE
9	GST MOV -09	ORDER OF DEMAND OF TAX AND PENALTY
10	GST MOV -10	NOTICE FOR CONFISCATION
11	GST MOV -11	ORDER OF CONFISCATION



Proper Officer for interception of conveyances



- The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.
- The proper officer under rule 138B of the CGST Rules (Section 68(3) of the CGST Act) is
 - Inspector (Circular No. 3/3/2017 – GST, dated 05.07.2017)



Form of E-way Bill to be carried (Physical or electronic)



- An e-way bill number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid.
- Wherever a facility exists to verify the e-way bill electronically, the officers may do so either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending EWBVER to the mobile number 77382 99899 (For e.g. EWBVER 120100231897).

Failure to produce documents

- Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in FORM GST MOV01.
- In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in FORM GST MOV-02, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods.
- The proper officer shall, within twenty four hours of the aforementioned issuance of FORM GST MOV-02, prepare a report in Part A of FORM GST EWB-03 and upload the same on the common portal



Conclusion of the inspection proceedings



- Within a period of three working days from the date of issue of the order in FORM GST MOV-02, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf.
- Where circumstances warrant such time to be extended, he shall obtain a written permission in FORM GST MOV-03 from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

Conclusion of the inspection proceedings(Contd)

- On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in FORM GST MOV-04 and
- serve a copy of the said report to the person in charge of the goods and conveyance.
- The proper officer shall also record, on the common portal, the final report of the inspection in Part B of FORM GST EWB-03 within three days of such physical verification/inspection.

- Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in FORM GST MOV-05 and allow the conveyance to move further.
- Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in FORM GST MOV-06 and a notice in FORM GST MOV-07 in accordance with the provisions of Section 129(3) of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance



- Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under Section 129(1)(a) of the CGST Act,
 - The proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in FORM GST MOV-05.

- Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under Section 129(1)(c) of the CGST Act,
- the goods and the conveyance shall be released, by an order in FORM GST MOV-05, after obtaining a bond in FORM GST MOV-08 along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of section 129(1) of the CGST Act.
- The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings



- Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in FORM GST MOV-09, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in FORM GST MOV-05. The order in FORM GST MOV 09 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.



- In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV10, proposing confiscation of the goods and conveyance and imposition of penalty.

- Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in FORM GST MOV-10.
- In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under section 130(2) of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to section 130(2) of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.

Confiscation of goods and conveyance



- No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.
- An order of confiscation of goods shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released.



- The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in FORM GST MOV-11, the order in FORM GST MOV-09 passed earlier with respect to the said goods shall be withdrawn.



- In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in FORM GST MOV11,
- the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.

- Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.
- A summary of every order in FORM GST MOV-09 and FORM GST MOV-11 shall be uploaded electronically in FORM GST-DRC-07 on the common portal.



Roll out of e-Way Bill system for intra-State movement of goods



- [http://www.cbec.gov.in/resources//htdocs-cbec/press-release/CBEC Press Release 15.04.2018.pdf](http://www.cbec.gov.in/resources//htdocs-cbec/press-release/CBEC%20Press%20Release%2015.04.2018.pdf)
- E-Way Bills are getting generated successfully and till 09 th April, 2018 more than sixty three lakh e-Way Bills have been successfully generated.
- E-Way Bill system for intra-State movement of goods would be implemented from 15 th April, 2018 in five States viz (i) Andhra Pradesh (ii) Gujarat (iii) Kerala (iv) Telangana (v) Uttar Pradesh



GST Portal Updates

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



New version of GSTR-4 offline tools (V2.1) is now available on portal



- <https://www.gst.gov.in/newsandupdates/read/195>
- For GSTR-4 for the 4th quarter (Jan . Mar), 2017-18, a new version of GSTR-4 offline tool (V2.1) is now available in .Download section from 6th April 2018. Please note, that declaring inward supplies details received from the registered suppliers (other than supplies attracting Reverse Charges) under Table 4A in the offline tools of GSTR-4 is mandatory. Table 4A and 4B of GSTR-4 is combined in the excel sheet of offline tool and return filers are required to specify Yes or No in the column of Reverse Charge Status to select the nature of supply. In case supplies are not related to reverse charge, No option is to be selected.



GST LEGAL UPDATES

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



Levy of GST on one time Lease Premium



Builders Association of Navi Mumbai Vs UoI reported in 2018-TIOL-24-HC-Mum-GST – CIDCO has correctly collected GST on the total one-time lease premium amount payable by the successful allottee at the rate of 18% - Demand for payment of GST is in accordance with law - said demand cannot be said to be vitiated by any error of law apparent on the face of the record: Mumbai High Court



HC upholds time limit for availment of Transitional Credit



JCB India Ltd Vs UoI reported in 2018-TIOL-23-HC-Mum-GST

CGST – Section 140(3) of the CGST Act, 2017 –
Petitioners challenge clause (iv) prescribing time
limit for transitional credit availment on the ground
that the same violates the mandate of Articles 14 and
19(1)(g) of the Constitution of India.

HC upholds time limit for availment of Transitional Credit(Contd)



- Held: CENVAT credit is a mere concession and it cannot be claimed as a matter of right - credit on inputs under the existing law itself is not absolute but a restricted or conditional right - If the existing law itself imposes condition for its enjoyment or availment, then, it is not possible to agree with the Counsel that such rights under the existing law could have been enjoyed and availed of irrespective of the period or time provided therein - The period or the outer limit is prescribed in the existing law and the Rules of CENVAT credit enacted thereunder –
- In the circumstances, Clause (iv) is not arbitrary, unreasonable and violative of Articles 14 and 19(1)(g) of the Constitution of India - if right to availment of CENVAT credit itself is conditional and not restricted or absolute, then, the right to pass on that credit cannot be claimed in absolute terms - there cannot be a estoppel against a statute - transitional arrangements that have been made have clear nexus with the object sought to be achieved and cannot be struck down as having no such relation or nexus – Petitions fail: High Court



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