

GST Update

Weekly Update
14.07.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 07.07.2018. 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

- No Notification/ Circular/Order issued during last week.
- One Press release on examination for GST Practitioners issued by CBIC
- Proposed amendments in CGST Act, 2017, IGST Act, 2017 and the GST (Compensation to States) Act, 2017 placed in the public domain for comments and suggestions

EXAMINATION FOR CONFIRMATION OF ENROLLMENT OF GST PRACTITIONERS

- <http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press%20Release%20 1 to inform GSTPs for exam.pdf;jsessionid=330E54C6E8DE52F427AEDB4B514BF8E0>
- NACIN has been authorized to conduct an examination for confirmation of enrollment of Goods and Service Tax Practitioners (GSTP) in terms of sub-rule (3) of rule 83 of the Central Goods and Service Tax Rules, 2017, vide Notification No. 24/2018-Central Tax dated 28.5.2018.
- The GSTPs covered under rule 83(1)(b) read with second proviso to rule 83 (3) of said rules, are required to pass the said examination before 31.12.2018. The schedule of examination, syllabus of examination and the website for registration for examination will be notified in due course.

Major Amendments proposed in CGST Act, 2017, IGST Act, 2017 and the GST (Compensation to States) Act, 2017

Section 2(4)- Adjudicating Authority



- National Anti-Profiteering Authority constituted by the Central Government under section 171 of the CGST Act
 - excluded from the definition of ‘adjudicating authority’.

Section 2(102) – Defn of Services

- Although ‘securities’ has been excluded from the definition of ‘goods’ and ‘services’ , facilitating or arranging transactions in securities is liable to GST
- Following explanation inserted in order to remove any doubts
- *Explanation-For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities.*

Schedule III

- Following activities inserted in Schedule III - Activities treated as neither supply of goods not supply of services
- **Out of scope/ Out and Out Supplies**: Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering the taxable territory
- **Supply of warehoused goods** to any person before clearance for home consumption.
- Supply of goods as **high seas sales**

Section 7(1A)

- A new sub-clause (1A) to section 7 of CGST Act
- Certain activities or transactions, **when constituting a supply** in accordance with the provisions of sub-section (1), shall be treated either as supply of goods or supply of services as referred to in Schedule II.
- Earlier an activity listed in Schedule II would be deemed to be a supply even if it does not constitute a supply as per section 7 (1) (a) or (b) or (c)

Section 9(4) of CGST Act, 2017

- Scope of supplies by unregistered person to registered person (under reverse charge mechanism) reduced
- Section 9(4) omitted and replaced with following (so as to limit the provision to select class of persons)-
- *9 (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of taxable goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.*

Composition Scheme

- The limit is being raised from Rs. 1 crore to Rs. 1.5 crore as a measure of trade facilitation
- At present manufacturers and traders supplying services are unable to opt for the scheme even if its percentage is very small as compared to the supplies of goods.
- Therefore, a new proviso is being added in order to allow them to be eligible for the scheme even if they supply services of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or Rs. 5 lakhs, whichever is higher.

Section 16(2)(b)- ITC

- One of the conditions for availing of credit by the registered person under the Act is the receipt of goods or services or both by him. In the case of “bill-to-ship-to” situations, for the purposes of availing of ITC on goods by the registered person, a deeming provision is present as an Explanation to section 16(2)(b) vide which the registered person is deemed to have received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of the said registered person.
- It is now proposed to provide this deeming fiction in case of services as well

Section 16(2) proviso

- It is proposed to remove the liability to pay interest in case where the recipient has been made liable to pay an amount equal to the ITC availed in case he fails to pay to the supplier of goods or services or both the amount towards the value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier.
- Upon payment of the due amount to the supplier, the recipient shall be eligible to avail ITC of the said amount

Section 17(3)

- It is proposed to allow availment of ITC on activities or transactions specified in Schedule III (other than sale of land and sale of building) by excluding it from the ambit of 'exempt supply' on which ITC is blocked.
- Following italicised portion inserted at the end of section 17(3)-
- 17 (3) The value of exempt supply under sub-section (2)*but shall not include the value of activities or transactions (other than sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building) specified in Schedule III.*

Section 17(5)

- Input tax credit would now be available in respect of dumpers, work-trucks, fork-lift trucks and other special purpose motor vehicles.
- Input tax credit would be denied only in respect of motor vehicles for transport of persons having approved seating capacity of not more than 13 persons (including the driver), vessels and aircraft when these are used for personal purposes.
- ITC will not be denied in respect of motor vehicles if they are used for transportation of money for or by a banking company or a financial institution.

Section 17(5)...Contd

- ITC in respect of services of general insurance, servicing, repair and maintenance in respect of those motor vehicles, vessels and aircraft on which ITC is not available under clause (a) of Section 17(5)
- Following sub-clause to be inserted
- *(aa) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels and aircraft for which the credit is not available in accordance with the provisions of clause (a);*

Section 17(5)...Contd

- Section 17(5)(b) is being amended
- ITC in respect of food and beverages, health services, travel benefits to employees etc., where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any law for the time being in force, to be allowed
- Following Proviso being added
- *Provided that the input tax credit in respect of such goods or services or both shall be available, where the provision of such goods or services or both is obligatory for an employer to provide to its employees under any law for the time being in force.*

34 (1) & 34 (3)- Credit/Debit Notes

- At present, a credit/debit note which is issued by the registered person is required to be issued invoice-wise.
- It is proposed to allow issuance of consolidated credit/debit which is in line with the best international practices. The amendment seeks to permit a registered person to issue consolidated credit / debit notes in respect of multiple invoices issued in a Financial Year without linking the same to individual invoices.

Section 39(9)- Amendment of return

- **Amendment of return:**
- It is proposed to provide for allowing taxpayers to amend the returns. This would enable the taxpayers to correct inadvertent mistakes in the returns by filing an amendment return.

Section 43A

- 43A. Procedure for furnishing return and availing input tax credit.
- A new section is being introduced in order to enable the new return filing procedure as proposed by the Returns Committee and approved by GST Council.

Section 48- GST Practitioners

- Presently, the GST Practitioners are authorised to furnish the details of outward and inward supplies and various returns under sections 39, 44 or 45 on behalf of a registered person.
- It is proposed to allow the GST practitioner to perform other functions such as, filing refund claim, filing application for cancellation of registration etc.

Section 12(8) of IGST Act, 2017

- In order to provide a level playing field to the domestic transportation companies and promote export of goods, it is proposed that the transportation of goods from a place in India to a place outside India by a transporter located in India would not be chargeable to GST, as place of supply will be outside India.
- Following proviso inserted to section 12(8)
- *Provided that if the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods*

Section 13(3)(a)

- It is proposed to not tax job work of any treatment or process done on goods temporarily imported into India (e.g., gold, diamonds) which are then exported. Place of supply in such cases shall not be the place where services are actually performed
- The proviso to section 13(3)(a) amended
- *Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after repairs or such treatment or process without being put to any other use in India, than that which is required for such repairs or such treatment or process;*



GST PORTAL UPDATES



GST PORTAL UPDATES

- Officers of Model II States/ UTs has been provided with a facility to assess the tax liability of an unregistered person, who is liable to get registration or whose registration has been cancelled, but who was liable to pay tax.
- The Proper officer may come to know about such a taxpayer during inspection or survey or enforcement or through information to an intelligence unit or through any other means, that taxable person fails to obtain registration, even though liable to do so.

(refer section 63 of the CGST Act, 2017)

- Presently, tax rates of IGST are - 28%, 18%, 12%, 5%, 3%, 0.25% and 0.1%. Under CGST and SGST/UTGST, the corresponding tax rates becomes as 14%, 9%, 6%, 2.5%, 1.5%, 0.125% and 0.05% respectively, as the tax rates under CGST/SGST/UTGST are 50% of the tax rates applicable under IGST.
- As of now tax officer can enter tax rate up to two decimal points only. But, if Act is selected as CGST/SGST/UTGST, then tax rate of 0.25% becomes 0.125. Due to validation in system, entry of 0.125% rate by the tax officer was not allowed, as it accepted entry of tax rate of two decimal points only.
- The validation has now been removed and officials can now do entry of tax rate up to three decimals point under CGST/SGST/UTGST, if IGST rate is 0.25% in Form GST DRC.

- Facility has been provided to UN bodies, Embassies or Other Notified Person for applying for Amendment of Registration of Non-Core fields on the GST Portal
- API for Application for Amendment of Registration (Non-Core fields) for UN bodies, Embassies or Other Notified Person has also been released for CBIC



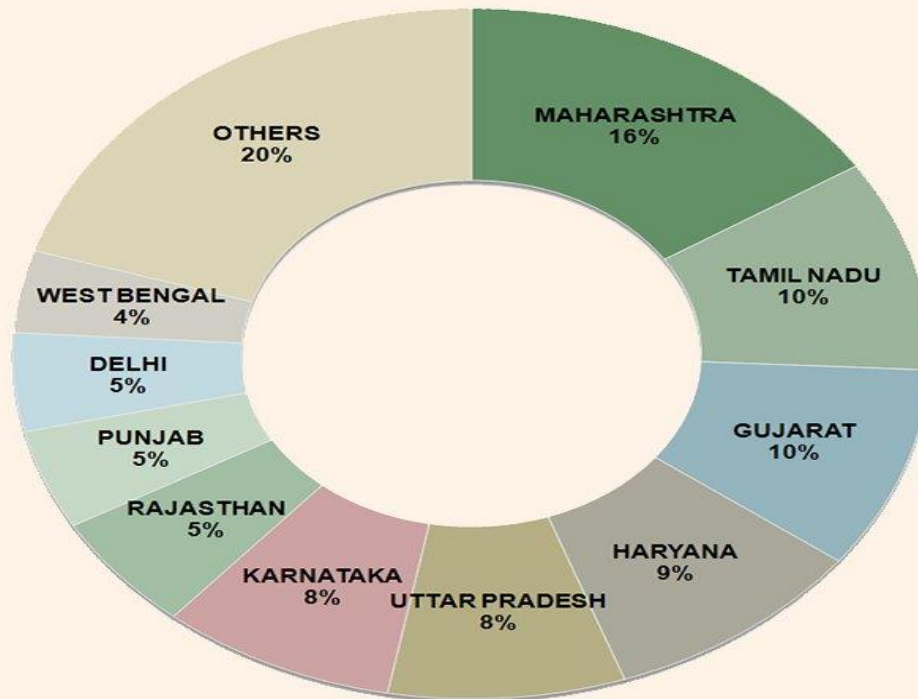
GOODS AND SERVICES TAX NETWORK

Form GST APL 01 now available on GST Portal

- A facility has been provided to taxpayers or any other person, to file an appeal to first Appellate Authority, against any decision or order, passed against him by an adjudicating authority, within three months from the date on which the said decision or order is communicated to such person.
(Refer rule 108(1) of the CGST Rules 2017)
- In case of orders/ notices for demand, the Taxpayer will have to make full payment of admitted liability and a pre-deposit, calculated on the amount of disputed tax, as per the provisions of GST Act.

Top E-way Bill Generating states in July 2018

Top ten E-way Bills Generating States in July 2018



Total E-Way Bills generated in July (as on 12th July): 1,74,72,515



Track Refund Status

Q. Can I track the status of my Refund Application?

A. Yes, you can track the status by using the **Services > Refunds > Track Application Status** service from the GST Portal.

Track Refund Status

Q. Can I track the status of refund for IGST and Cess paid on account of Export of Goods?

A. Yes, you can track the status of refund application for IGST and Cess paid on account of Export of Goods. Login to the GST Portal with valid credentials. Navigate to **Services > Refunds > Track status of invoice data to be shared with ICEGATE** service from the GST Portal.

Status can be tracked on monthly basis by the taxpayer by providing FY and Month. If the taxpayer files GSTR-1 quarterly, they need to select the last month of the respective quarter, for which status is to be tracked and the result displayed would be for the whole quarter.



GOODS AND SERVICES TAX NETWORK

Track Refund Status

Q. What information can be accessed from “Export Ledger”?

A. You can access the transaction details in Export Ledger for all the return periods with debit or credit IGST and Cess amounts. The net balance for IGST and Cess is also displayed on click of “View Export Ledger”. You can also download the Export Ledger in CSV file by clicking on **DOWNLOAD AS CSV** button.



GOODS AND SERVICES TAX NETWORK

Track Refund Status

Q. Can I access the Export Ledger on the GST Portal?

- A. Yes, you can access the Export Ledger on the GST Portal. Login to the GST Portal with valid credentials. Navigate to **Services < Refunds > Track status of invoice data to be shared with ICEGATE > Select the View Export Ledger link.**
- Taxpayer shall not select tax period for viewing Export Ledger. Export Ledger would be displayed till date.

Track Refund Status

Q. What are different status types of refund application for IGST and Cess paid on account of Export of Goods?

A.

CONDITION	STATUS	RECOMMENDED ACTION
If Refund data has not been processed by GST system so far	Return data is yet to be Processed: Data for the given return period is yet to be processed by the GST System. The data shall be processed and sent to ICEGATE shortly.	
<p>Details to be transmitted/partially transmitted to ICEGATE</p> <p>Invoices not transmitted to ICEGATE</p> <p>< count > < amount of IGST ></p> <p>(SB/Port Code details are either missing or Port Code is incorrect)</p>	<p>1 Invoices are not transmitted to ICEGATE due to missing SB/Port Details or incorrect Port code. You can view details by clicking on error count & "Download Failed Invoices" button to download details of failed invoices.</p>	<p>You can amend these errors in Table 9A of subsequent month GSTR-1 by making appropriate corrections and the record shall be revalidated in next execution cycle. No action is required if the invoices are for export of services.</p>

Track Refund Status

Q. What are different status types of refund application for IGST and Cess paid on account of Export of Goods?

A. CONDITION	STATUS	RECOMMENDED ACTION
If Refund data not transmitted to ICEGATE because GSTR-1 is not filed for the tax period	Details not transmitted to ICEGATE GSTR-1 not filed:	GSTR-1 for the selected return period has not been filed. Please file GSTR1 of the selected return period.
If Refund data not transmitted to ICEGATE because IGST/CESS paid under Table 3.1(b) of GSTR 3B is less than refund claimed. And the difference is more than Rs.100.	Details not transmitted to ICEGATE -IGST paid under Table 3.1(b) of GSTR 3B is less than refund claimed: In case of IGST and/or CESS: The invoices have not been transmitted to ICEGATE as cumulative total of IGST/CESS amount in Table 3.1(b) of all GSTR-3Bs filed so far is less than cumulative total of IGST/CESS amount in Table 6A and 9A of all GSTR-1s filed so far.	For both IGST and Cess: Please take care of this deficiency in next return (GSTR-1 and GSTR-3B) ensuring that there is no deficiency (short payment) at aggregate level. The invoices shall be re-validated in next cycle and sent to ICEGATE if this deficiency is cleared in next GSTR-3B.

GST LEGAL UPDATES

Failure to file Part-B of E-Way Bill would attract Penalty

Writ Petition No.12399 of 2018 – Order of High Court dated 05.07.2018

M/s Gati Kintetsu Express Pvt Ltd Vs Commissioner, Commercial Tax of MP & Others

The Hon'ble High Court of Madhya Pradesh vide its order dated 07.07.2018 dismissed the Writ Petition Filed by the appellant by holding as under

In the present case, the distance was more than 1200-1300 Kms and it is mandatory for the petitioner to file the part-B of the e-way bill giving all the details including the vehicle number before the goods are loaded in the vehicle. Thus, he admittedly violated the provisions of the Rules and Act of 2017 and, learned Authority rightly imposed the penalty and directed the petitioner to pay the same. The order is not in violation of any of the provisions of the Rules and Act of 2017. The Writ Petition filed by the petitioner has no merit and is accordingly, dismissed

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_Gol
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU