



GST Update

Weekly Update
17.02.2018

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 10.02.2018. 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

- One CGST Circular issued during the week clarifying levy of GST on a few services
- A Guide on IGST Refund of goods in ICES along with FAQs on the subject issued by Director General of Systems, CBEC



Clarifications regarding GST in respect of certain services



- <http://www.cbec.gov.in/resources//htdocs-cbec/gst/circularno-32-cgst.pdf>
- Clarifications regarding GST in respect of certain services issued
- **Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).**
- *No*
- *However, the Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate)]*

Fees paid to Consumer Disputes Redressal Commission

- A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices. These fees are credited into State Consumer Welfare Fund's bank account. Whether GST Leviable?
- *No, fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services.*
- *Any penalty imposed by or amount paid to these Commissions will also not attract GST.*

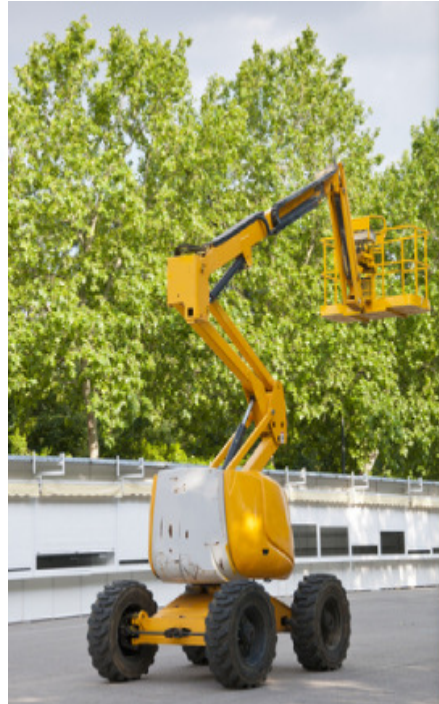
GST on Camel/ Elephant Rides

- Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides?
- *Elephant/ camel joy rides cannot be classified as transportation services.*
- *These services will attract GST @ 18% with threshold exemption being available to small service providers.*

GST on Leasing/ renting services by Boom Lifts/ Scissors Lift/ Telehandlers

- **What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Telehandlers)?**
- The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer.





BOOM LIFT

- › ALTERNATIVE NAMES:
CHERRY PICKER
MAN LIFT
- › EXTENDS 30-170FT.
- › SWINGS 360°
- › LATERAL MOTION



SCISSOR LIFT

- › ALTERNATIVE NAMES:
SKYJACKS
ELEVATING WORK PLATFORMS
AERIAL WORK PLATFORM
- › MAX REACH 50FT.
- › LIFTS AROUND 1500LBS.
- › SAFEST INDUSTRIAL LIFT

GST on Boom Lifts, Scissor Lifts, Telehandlers

- *Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods.*
- *Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%.*
- *IGST(or CGST +SGST) paid at the time of import (or purchase) of these goods would be available for discharging applicable GST on rental services. Thus, only the value added gets taxed.*

GST on Health care services by Doctors to Hospitals

- Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship.
- Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST?
- *Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt*
- *Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.*

- **Retention money:** Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals?
- *Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India. Therefore, hospitals also provide healthcare services. So entire amount is exempt.*



GST on Food to In-Patients and Others in Hospitals



- **Food supplied to the patients:**
- Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC.
- If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.



GST on Food to In-Patients and Others in Hospitals (Contd)



- *Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable.*
- *Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.*

Taxability of Cost Petroleum

- **Taxability of Cost Petroleum**
- *As per the Production Sharing Contract(PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called “Cost Petroleum”.*
- *Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense.*

- *Cost petroleum is not a consideration for service to GOI and thus not taxable per se.*
- *However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.*



Guide on IGST Refunds in ICES- DG, Systems, CBEC



- DG System, CBEC
 - has released a guide on IGST Refunds in ICES
- The IGST refund module has an in built mechanism to automatically grant refund after validating the Shipping Bill data with available in ICES against the GST Returns data transmitted by GSTN. The matching between the two data sources is done at Invoice level and any mis-match of the laid down parameters returns shows following error/response codes:

Error Codes



- SB000 Successfully validated ;
- SB001 Invalid SB details;
- SB002 EGM not filed ;
- SB003 GSTIN mismatch;
- SB004 Record already received and validated;
- SB005 Invalid Invoice Number
- SB006; Gateway EGM not available

- If the necessary matching is successful,
- ICES shall process the claim for refund and
- the relevant amount of IGST paid with respect to each Shipping Bill or Bill of export
- shall be electronically credited to the exporter's bank account as mentioned with the Customs authorities.

SB000: Successfully Validated

- It might happen that even with SB000, the SB does not appear in the refund scroll. This could be due to:
 - The exports might have been made under bond or LUT, hence not liable for refund.
 - If a shipping bill covers multiple invoices, few of the invoices might have been successfully validated with code SB000 whereas other invoices might be stuck with any of the other errors.
 - Higher rate of Drawback has been claimed for that SB, thus making the SB ineligible for IGST refund.
 - Where the IGST claim amount is less than Rs. 1000/-.
- In all the above cases, the scroll amount (check SB Wise IGST Claimed Status Report) shall automatically become zero and the SBs shall not be included in the refund scroll



SB000: Successfully Validated



- There are two more reasons where the SBs will figure in the Temporary IGST Scroll but not in the Final Scroll. This could happen if there is an alert/suspension on the IEC in ICES or if the account of the IEC is not validated by PFMS.

SB001: Invalid Shipping Bill Number



- This may occur due to a mismatch between the SB No. furnished in GSTR-1/6A and the SB No. with customs.
- The possible reason for such mismatch could be a clerical error made by the exporter at the time of filling of GSTR-1/6A, which can be rectified by making amendments in GSTR-1 by using Form 9A.
- Form 9A has been made available by GSTN w.e.f 15.12.2017 in exporter's login at the GST Common Portal.

SB002: EGM not filed



- Exporter may approach the Shipping Lines to file the EGM immediately.
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SB003: GSTIN mismatch



- This error occurs when GSTIN declared in the SB does not match with the GSTIN used to fill the corresponding GST Returns.
- In this case too, the Exporter may be asked to make necessary adjustments in GSTR-1 by use of amendment Form 9A.
- However, it is to be noted that there is no provision of amendment in the Shipping Bill once the EGM is filed.



SB004: Record already received



- This error code occurs due to duplicate/repeat transmission of SB-Invoice record from GSTN. The previous transmission would have already been validated for IGST refund by ICES.

SB005: Invalid Invoice Number

- This is the most common error faced by the exporters, which occurs due to mismatch of invoice number as declared in the Invoice Table in the SB and that declared in the GSTR 1 for the same supply. This can happen due to:
 - a) Typographical mistake while entering data in GSTR 1 or the SB.
 - b) The exporter uses two sets of invoices, one invoice for GST and another invoice for exports resulting in mismatch of invoice numbers.

SB005: Invalid Invoice Number(Contd)

- If SB005 is due to a data entry mistake in GSTR 1, it can be amended now in Form 9A. But any mistake in the SB cannot be amended once EGM is filed. Also, if the exporter has indeed used a separate invoice in the SB, he cannot include that in his GSTR 1 in lieu of his GST Invoice. Thus SB005 error, largely, cannot be corrected by any amendment either in GSTR 1 or in the Shipping Bill.
- Interim workarounds shall only be available as a one-time measure for the past SBs. Hereafter, it is advised that the exporters be informed to not repeat this mistake and ensure that the same GST compliant export invoice is declared at both ends.

SB006: Gateway EGM not available



- In case of ICDs, if the Gateway EGM is not filed electronically or is stuck in some error, response code SB006 shall appear. It is noticed that Gateway EGM in case of many ICD's Shipping Bills have been manually filed, which shall not suffice and the EGM shall have to be filed in ICES at the gateway port.
- Gateway EGM pendency and error reports can be viewed in NewMIS role. In case of pending Gateway EGMs, Shipping Lines may be approached at gateway ports to file supplementary EGMs expeditiously.

Non Transmission of Returns Data from GSTN

- The above error codes can be seen by the field officer in the GSTN Integration Status Report in NewMIS. But this report includes only those SBs on which the IGST validation procedure is run. There are primarily two conditions for GSTN to transmit the data:
 - Both, GSTR1/6A and GSTR3B should have been filed for that supply
 - The IGST paid on exports declared in GSTR 3B should not be less than that declared in GSTR1/6A
 - There are no missing invoices in GSTR1 for that supply
- If the exporter finds that even after the correct filing of returns as above, their SBs do not reflect in this report, they may be advised to write to GSTN helpdesk.



Reports Available with Field Officers



- GSTN Integration Status Report in NewMIS role in Export Based Reports and view above response codes for each SB.
- The SB wise IGST Claimed Status Report
- list of IECs where account details are not validated in PFMS
- SB wise IGST Verified but Refund not Granted Report
- Gateway EGM Pendency and Error reports
- In addition to the above reports, there are other reports also which give details on different parameters relevant to IGST refund for each SB/IEC/GSTIN like,
 - IEC wise IGST Claimed
 - GSTIN wise count of SBs/EGMs
 - IEC wise Refund Granted/Not Ganted etc

ROLE OF THE EXPORTER



- GST validation Status for his SBs in his ICEGATE website login.
- The exporter also has the option to view the SB details relevant for IGST validation on the ICEGATE website. The exporter can view this while filing the GST Returns and ensure that the details are entered accurately in the Returns as well so that no mismatch occurs.
- In case, the exporter's account is not validated by PFMS, he may approach jurisdictional Customs commissionerate with correct account details and get it updated in ICES.
- If the exporter is not getting the refund due to suspension/alert on his IEC, he may clear his dues or submit e-BRC and have the suspension revoked.



GST Portal Updates

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



REFUND OF ITC ACCUMULATED DUE TO INVERTED TAX STRUCTURE (RFD-01A)

Q. I am not able to make any changes in the refund application? What could be the issue?

A. After clicking on Proceed button no changes can be made in the refund application.



REFUND OF ITC ACCUMULATED DUE TO INVERTED TAX STRUCTURE (RFD-01A)

Q. Where can I track my filed refund application?

- Filed applications (ARNs) can be downloaded as PDF documents using the My Saved / Submitted Applications option under Refunds.
- Filed applications can be tracked using the Track Application Status option under Refunds.



REFUND OF ITC ACCUMULATED DUE TO INVERTED TAX STRUCTURE (RFD-01A)

Q. What is the 'SAVE' feature in refund application?

A. The refund application must be saved before filing.

- The system will flash a confirmation message when saving the application for the first time.
- The system displays a confirmation message upon saving the application.
- Application can be saved at any stage and can be retrieved using the My Saved / Submitted Applications option under Refunds.
- Saved applications are stored in the system for 15 days, after which they get automatically deleted.
- Saving the application activates the Declaration checkbox.



REFUND OF ITC ACCUMULATED DUE TO INVERTED TAX STRUCTURE (RFD-01A)

Q. What is Adjusted Total Turnover?

A. Adjusted total turnover is the turnover in a State or a Union territory, as defined under clause (112) of section 2 of CGST Act, excluding the value of exempt supplies other than inverted-rated supplies, during the relevant period.



GST Legal Updates

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



Detention of Goods sent for Job Work



Age Industries (P) Ltd Vs Asst State Tax Officer reported in 2018-TIOL-07-HC-Ker-GST GST - Petitioner engaged in manufacture and sale of surgical gloves and registered under CGST as well as Kerala SGST Act –Goods (surgical gloves) sent for quality appraisal on job work basis against delivery challans detained by respondent on the ground and that, therefore, tax evasion is suspected - detention challenged under Writ Petition - Government Pleader attempted to support the impugned detention on the reason that the delivery chalan that accompanied the goods was not the one prepared in accordance with the provisions contained in the State SGST Rules - however, he did not attempt to support the impugned detention on the alleged ground that the person to whom such goods are supplied is unregistered is irrelevant in the context of the statutes. Held: Respondent cannot be heard to support the detention on a reason not mentioned in the said notice - Writ petition is allowed, the impugned detention is held to be illegal and the respondent is directed to release the consignment to the petitioner forthwith - GST – Proceedings for contravention of State SGST Rules, if any to continue: High Court



Any ISSUES/ queries?



- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
 - 1800 1200 232
 - cbecmitra.helpdesk@icegate.gov.in
- GSTN Help Desk
 - helpdesk@gst.gov.in
 - 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