

GST Update

Weekly Update
25.07.2020

Background

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 04.07.2020. No updates issued on 11.07.2020 and 18.07.2020. 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

- Registration Trend (Active Taxpayers Net of Cancellations) as in June 2020
 - 1,23,11,104
- Active Taxpayers as on 30th June 2020: Summary**

Normal Taxpayers	Composition Taxpayers	Input Service Distributor	Casual Taxpayers	Tax Collector at source	Tax Deductor at source	Total	Migrated out of Total
1,03,96,876	17,11,581	7,387	45	9,250	1,85,657	1,23,11,104	53,28,537

UIN Holders	Non Resident Taxpayers	OIDAR
2,264	3	305

GITA (GST Interactive Technical Assistant)- a Chatbot

Looking for help on GST technical issues?

WE HAVE CROSSED 1,00,000 SUBSCRIBERS

Hello, I am GITA (GST Interactive Technical Assistant). I will assist you on your queries on technical issues to GST Portal.

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26th June 2020

REGISTRATION, GSTR-3B, OFFLINE TOOL, GSTR-8, RETURNS, GSTR-9C, NEW GST RETURN, COMPOSITION SCHEME, REFUNDS, E-WAY BILL

Beware of FRAUD website <https://onlinefiling1>

- Home
- Report Issue
- Check Status
- Feedback

About this Portal

The Portal has been designed for lodging complaints by taxpayers and other stakeholders. They can lodge Complaint here indicating issues or problems faced by them while working on GST portal instead of sending emails to the Helpdesk. It has been designed in a manner that the user can explain issues faced and upload screenshots of pages where they faced the problem, for quick redressal of grievances.

Having this portal has the following advantages:

- Enable the user to lodge his complaint and raise tickets himself.
- To provide all required information and reducing to and fro communication between helpdesk and the tax payers, helping to reach a faster resolution.
- Enable the tax payer to check the progress of resolution of his complaint by using the ticket number (acknowledgement number)
- Check the resolution comments in case the complaint/ticket is closed.
- Based on selection of category/subject and sub-category, portal provides relevant FAQ/pages of User manual to help the user resolve the problem

News

- Relief in opting for Composition by Taxpayers & filing other Returns
- Relief in payment of interest to Taxpayers filing Form GSTR-3B
- Relief in late fee to Taxpayers filing Form GSTR-3B and Form GSTR-1
- Facility for registration of IRP/RPs made available on t
- Alert to Taxpayers on fake messages on GST Refund
- File FORM GST PMT 09, to transfer/shift the money available in Electronic Cash ledger, between various major and minor heads of GST

Hi! How can I help you?



GITA (GST Interactive Technical Assistant)- a Chatbot (Contd)

- <https://selfservice.gstsystem.in/>
- GST Grievance Portal / Help Desk revamped
- GSTN launched its Chatbot GITA (GST Interactive Technical Assistant)
- GITA is loaded with pre-drafted responses to the queries asked by taxpayers on common topics, such as- Payment, E-way bill, Registration, Refunds and Returns etc.
- The Chatbot works on Artificial Intelligence (AI) based technology. 24x7 facility is available on GST portal for mobile users too.
- 10 New languages of Interaction added other than English & Hindi: Assamese, Bengali, Gujarati, Kannada, Malayalam, Marathi, Odiya, Punjabi, Tamil and Telugu.

Extension for filing GSTR-4

- **Notification no. 59/2020 (CT) dated 13th July 2020**
- Vide Notification no. 34/2020 Central Tax dated 3rd April 2020, the date of filing return in **Form GSTR-4- Annual return** to be filed by composition taxpayers for the year 2019-20 had been extended to 15th July 2020.
- Now the same has further been extended from 15th July 2020 to 31st August 2020.

- <https://www.gst.gov.in/newsandupdates/read/391>
- **What is Form GSTR-4 Annual Return:** -
- With effect from 1st April 2019, all Composition Taxpayers are required to file Form GSTR-4 Annual Return, on annual basis, for each financial year.
- **Who are required to file Form GSTR-4 Annual Return:**
- All registered taxpayers who have opted for composition scheme or were under composition scheme under GST, for any period during a financial year, starting from 01.04.2019, need to file Form GSTR-4 Annual Return, annually.

- **Who can file NIL Form GSTR-4 Annual Return:**
- Nil Form GSTR-4 Annual Return can be filed for the financial year, if you have, for all applicable quarters of the year,:
 - NOT made any outward supply
 - NOT received any goods/services
 - Have NO other liability to report
 - Have filed all Form CMP-08 as Nil
- **Due date of Filing:** The due date for filing GSTR-4 Annual Return is 30th of the month succeeding the financial year or as extended by Government, from time to time. For FY 2019-20, it has to be filed by 31/08/2020.
- **Filing Form GSTR-4 Annual return:** Logon to your dashboard, click on *Services > Returns > Annual Return > Select FY > Search > GSTR 4 > FILE THE RETURN.*

- Form GSTR 4 can be filed only if, all applicable quarterly statements in Form CMP 08 of that financial year, have been filed.
- Form GSTR-4 Annual Return, once filed, can't be revised
- Currently only the online filing has been enabled on the portal. Shortly, offline tool to file Form GSTR-4 Annual Return will also be made available.
- **How it is different from Form GSTR-4 Quarterly Return:** GSTR-4 Annual Return is different from the Form GSTR-4 Quarterly Return, which was required to be filed on a quarterly basis.
- Form GSTR-4 Quarterly Return is applicable up to tax period ending on 31st March 2019, for composition taxpayers.
- For tax periods till the quarter ending March 2019, Composition Taxpayers are required to file Form GSTR-4 Quarterly Return (which is also available on the GST portal), on quarterly basis. Whereas from 01.04.2019, composition taxpayers are required to file Form GST CMP 08, on quarterly basis.

Interim measure for filing revocation of cancellation order

- In cases where application for revocation of cancellation of registration was rejected by the tax authorities before 12/6/2020 and one wish to avail benefit of RoD order 01/2020 dated 25.06.2020, as an interim measure, he can request the appellate authority or the higher authority to pass a simple offline order on it for restoration of the application.
- Based on such order, jurisdictional authority can restore the application for revocation of cancellation. He need to apply post login:-Registration- Restore Registration- Restore Revocation. Enter ARN of the order and upload scanned copy of the order passed after clicking “Appeal in favour”.
- GSTN is working on to remove present restriction on reapplication of the revocation of cancellation application. After that filing of revocation of application would become one step process. It is expected to be available shortly. The above suggested solution is an interim measure.

GST rate on alcohol-based hand sanitizers

- <http://www.gstcouncil.gov.in/sites/default/files/Press-Dynamic/PIB1638769.pdf>
- PIB Press release dated 15th July 2020
- The hand sanitizers attract GST at the rate of 18%. Sanitizers are disinfectants like soaps, anti-bacterial liquids, dettol etc which all attract duty standard rate of 18% under the GST regime. It is further clarified that inputs for manufacture of hand sanitizers are chemicals packing material, input services, which also attract a GST rate of 18%. Reducing the GST rate on sanitizers and other similar items would lead to an inverted duty structure and put the domestic manufacturers at disadvantage vis-a-vis importers. Lower GST rates help imports by making them cheaper. This is against the nation's policy on Atmanirbhar Bharat. Consumers would also eventually not benefit from the lower GST rate if domestic manufacturing suffers on account of inverted duty structure.

Data Exchange between CBIC and CBDT

- <https://pib.gov.in/PressReleasePage.aspx?PRID=1640147>
- A Memorandum of Understanding (MoU) has been signed between the CBDT and the CBIC, for data exchange between the two organisations.
- The MoU will facilitate the sharing of data and information between CBDT and CBIC on an automatic and regular basis. In addition to regular exchange of data, CBDT and CBIC will also exchange with each other, on request and spontaneous basis, any information available in their respective databases which may have utility for the other organisation.
- A Data Exchange Steering Group has also been constituted for the initiative, which will meet periodically to review the data exchange status and take steps to further improve the effectiveness of the data sharing mechanism.



Legal Updates

- Jian International Vs Commr Delhi GST; Hon'ble Delhi High Court
- The petitioner contends that in accordance with Section 54(6) of DGST Act read with Rule 91(2) of Delhi GST Rules, 2017, proper officer is required to refund at least 90% per cent of the refund claimed on account of zero-rated supply of goods or services or both made by registered persons within a period of seven days from the date of acknowledgment issued under sub-rule (1) or sub-rule (2) of Rule 90 of DGST Rules. He states that despite the period of fifteen days from the date of filing of the refund application having expired on 19th November 2019, the respondent has till date neither pointed out any deficiency/discrepancy in FORM GST RFD-03 nor it has issued any acknowledgement in FORM GST RFD-02.

Delayed issue of deficiency memo (Contd)

- Held- Rule 90 and 91 provide a complete code for the acknowledgment, scrutiny and grant of refund
- Where no deficiency memo is issued within 15 days, the application will be presumed to be complete in all respects
- Where all documents are annexed, issuance of deficiency memo would be hyper technical
- Where there is deficiency. the original application could be rejected, and fresh application is to be filed. On facts, no communication being issued within 15 days, respondent has lost the right to point out any deficiency, in the petitioner's refund application, at this belated stage.
- Respondent directed to refund with interest.

Validity of Rule 117 of the CGST Rules, 2017

- PR Mani Electronics Vs Uol; Madras High Court
- GST - Validity of Rule 117 of the CGST Rules, 2017 is under challenge on the grounds that it is ultra vires Section 140 of the CGST Act and infringes Articles 14 and 300A of the Constitution - Petitioner further prays that the Respondents should be directed to permit the Petitioner to file Form GST TRAN-1 either electronically or manually to claim the transitional input tax credit of Rs.4,70,008/-

Validity of Rule 117 of the CGST Rules, 2017 (Contd)

Held: Section 140 of the CGST Act read with Rule 117 of the CGST Rules enables a registered person to carry forward the accumulated ITC under erstwhile tax legislations and claim the same under the CGST Act - In effect, it is a transitional provision as is evident both from Section 140 and Rule 117 - It is evident that ITC cannot be availed of without complying with the conditions prescribed in relation thereto - Prior to the amendment to Section 140 of the CGST Act, the power to frame rules fixing a time limit was arguably not traceable to the un-amended Section 140 of the CGST Act, which contained the words "in such manner as may be prescribed", because such words have been construed by the Supreme Court in cases such as Sales Tax Officer Ponkuppam v. K.I. Abraham [(1967) 3 SCR 518] as not conferring the power to prescribe a time limit - Nevertheless, Bench views that it was and continues to be traceable to Section 164, which is widely worded and imposes no fetters on rule making powers except that such rules should be for the purpose of giving effect to the provisions of the CGST Act -

Validity of Rule 117 of the CGST Rules, 2017 (Contd)

A fortiori , upon amendment of Section 140 by introducing the words "within such time", the power to frame rules fixing time limits to avail Transitional ITC is settled conclusively - In SKH Sheet Metals [2020-TIOL-1031-HC-DEL-GST], the Delhi High Court concluded, in paragraph 26, that the statute had not fixed a time limit for transitioning credit by also referring to the repeated extensions of time - Given the fact that the power to prescribe a time limit is expressly incorporated in Section 140, which deals with Transitional ITC, and Rule 117 fixes such a time limit, Bench is unable to subscribe to this view - The fact that such time limit may be extended under circumstances specified in Rule 117, including Rule 117A, does not lead to the sequitur that there is no time limit for transitioning credit - Section 16(4) of the Act is indicative of the legislative intent to impose time limits for availing ITC - Keeping the above statutory backdrop in mind, in the context of Transitional ITC, the case for a time limit is compelling and disregarding the time limit and permitting a party to avail Transitional ITC, in perpetuity, would render the provision unworkable -

Validity of Rule 117 of the CGST Rules, 2017 (Contd)

Bench concurs with the conclusion of the Bombay High Court in Nelco [2020-TIOL-641-HC-MUM-GST] that both ITC and Transitional ITC cannot be availed of except within the stipulated time limit - There can be no quarrel with conceptual position stated in in SKH Sheet Metals by the Delhi High Court that ITC is the heart and soul of GST legislations inasmuch as such legislations are designed to prevent the cascading of taxes; however, it is not a logical corollary thereof that time limits for availing ITC and, in particular, Transitional ITC, are inimical to the object and purpose of the statute - Division Bench of this Court in C. Bright v. The District Collector, [2019 SCC Online Mad 2460] captured the relevant factors to determine whether a provision is directory or mandatory, illustratively, in paragraph 20 - Those factors are - the use of peremptory or negative language, which raises a rebuttable presumption that the provision is mandatory; the object and purpose of the statute and the provision concerned; the stipulation or otherwise of the consequences of non-compliance; whether substantive rights are affected by non-compliance; whether the time limits are in relation to the exercise of rights or availing of concessions; or whether they relate to the performance of statutory duties - In this case, the peremptory word "shall" is used -

Validity of Rule 117 of the CGST Rules, 2017 (Contd)

- The relevant rule deals with the time limit for availing Transitional ITC by carrying it forward from the credit balance under tax legislations which have been repealed and replaced by the CGST Act - Thus, the object and purpose of Section 140 clearly warrants the necessity to be finite - ITC has been held to be a concession and not a vested right - In effect, it is a time limit relating to the availing of a concession or benefit - If construed as mandatory, the substantive rights of the assesseees would be impacted; equally, if construed as directory, it would adversely impact the Government's revenue interest, including the predictability thereof - On weighing all the relevant factors, which may be not be conclusive in isolation, in the balance, Bench concludes that the time limit is mandatory and not directory;
- Petition dismissed



THANK YOU