

GST Update

Weekly Update
27.04.2019

Background



- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 20.04.2019. 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

Notifications and Circulars

- Four Central Tax Notifications issued
- Two Central Tax Circulars issued
- One Removal of Difficulties Order issued by CBIC
- Two Press Releases by CBIC issued
- Committee formed by GST Council on electronic invoices in GST

GST Practitioner Examination

- [http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press-Release-\(14.06.19\)-English.pdf;jsessionid=2D1BB33554B1B9E0E7627E3E5BE86CA3](http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press-Release-(14.06.19)-English.pdf;jsessionid=2D1BB33554B1B9E0E7627E3E5BE86CA3)
- The GSTPs enrolled on the GST Network under sub-rule (2) of Rule 83 and covered by clause (b) of sub-rule (1) of Rule 83, i.e. those meeting the eligibility criteria of having enrolled as sales tax practitioners or tax return preparer under the existing law for a period not less than five years, are required to pass the said examination before 31.12.2019 in terms of Notification no. 03/2019-Central Tax dated 29.01.2019.
- The next examination for them shall be conducted on **14.06.2019** from 1100 hrs to 1330 hrs at designated examination centers across India

- The registration for the exam can be done by the eligible GSTPs on a registration portal, link of which will be provided on NACIN and CBIC websites.
- The registration portal for exam scheduled on 14.06.2019 will be activated on 21st May, 2019 and will remain open up to 4th June, 2019
- For convenience of candidates, a help desk will also be set up, details of which will be made available on the registration portal. The applicants are required to make online payment of examination fee of Rs. 500/- at the time of registration for this exam.

Pattern and Syllabus of the Examination PAPER

GST Law & Procedures:

Time allowed: 2 hours and 30 minutes

Number of Multiple Choice Questions: 100

Language of Questions: English and Hindi

Maximum marks: 200 **Qualifying marks:** 100

No negative marking

Syllabus: 1. CGST Act, 2017 2. IGST Act, 2017 3. SGST Acts, 2017 4. UT GST Act(s), 2017 5. GST (Compensation to States) Act, 2017 6. CGST Rules, 2017 7. IGST Rules, 2017 8. All SGST Rules, 2017 9. Notifications, Circulars and orders issued from time to time

Note: As GST Law and Procedures are still evolving, the various items of the above syllabus will be considered **as on 1.4.2019** for the purpose of this examination.

Important Dates for GST Practitioners Examination

Commencement of on-line submission of application form	21/05/2019
Last Date of submitting the details Application form	04/06/2019
Hall Ticket / Admit Card can be downloaded (Tentative)	07/06/2019 To 08/06/2019
Date of Computer Based Test	14/06/2019
Declaration of Result / Merit List(Tentative)	20/06/2019

Time period for filing GSTR-3B for the month of March 2019 extended

- **Notification No.19/2019-Central Tax dated 22nd April, 2019**
- Seeks to extend the due date for furnishing FORM GSTR-3B for the month of March, 2019 from 20.04.2019 to 23.04.2019

Special Procedure for Return filing by Composition Taxpayers

- **Notification No.21 /2019 – Central Tax dated 23rd April, 2019**
- Notifies the registered persons paying tax under the provisions of section 10 of the CGST Act or by availing the benefit of notification No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, as the class of registered persons who shall follow the **special procedure for furnishing of return and payment of tax**
- **Quarterly Statement** in form GST CMP-08 by 18th of the month succeeding such quarter, for payment of self assessed tax
- **Annual Return** in GSTR-4 by 30th April following the end of such financial year

- **Notification No. 20/2019 – Central Tax dated 23rd April, 2019**
- **Rule 23(1) of CGST Rules, 2017: Revocation of cancellation of registration-** Two provisos inserted
 - **For cancellation without retrospective effect:**
 - All returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed
 - All returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration.

- **For cancellation with retrospective effect:**
 - The common portal does not allow furnishing of returns after the effective date of cancellation
 - A third proviso was added to rule 23(1) of the said Rules enabling filing of application for revocation of cancellation of registration, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of thirty days from the date of order of such revocation of cancellation of registration.

Amendment to CGST Rules, 2017 (Contd)

- **Rule 62 of CGST Rules, 2017:** Form and manner of submission of statement and return- Taxpayers opting for composition schemes to pay tax on quarterly basis, file returns on annual basis; Need to file statement for purpose of payment of tax
- **Annual Return by Composition taxpayers:** They shall furnish a return for every financial year or, as the case may be, part thereof in FORM GSTR-4, till the 30th April following the end of such financial year
- **Quarterly Statement by Composition taxpayers:** They shall furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in FORM GST CMP 08, till the 18th of the month succeeding such quarter

Amendment to CGST Rules, 2017 (Contd)

- **Form GST CMP – 08- Statement for payment of self-assessed tax**
- New Format for GST CMP-08 notified
- “Nil” Statement shall be filed if there is no tax liability due during the quarter.
- Interest shall be leviable if payment is made after the due date.
- Negative value may be reported as such if such value comes after adjustment.
- If the total tax payable becomes negative, then the same shall be carried forward to the next tax period for utilising the same in that tax period.

Effective date of implementation of Rule 138E of CGST Rules, 2017

- **Notification No.22 /2019 – Central Tax dated 23rd April, 2019**
- Rule 12 of the CGST (14th) Amendment Rules, 2018 viz Rule 138E of the CGST Rules, 2017 shall come into force w.e.f 21st June, 2019
- Rule 138E of CGST Rules, 2017- Restriction on furnishing of information in PART A of FORM GST EWB-01.
 - Any person who has not furnished the returns for a consecutive period of two months (Two tax periods for composition taxpayers), shall not be allowed to furnish Part A of GST EWB-01
 - W.e.f 21st June, 2019

Clarification in respect of utilization of ITC under GST

- **Circular No. 98/17/2019-GST dated 23rd April, 2019**
- **Clarification on Section 49A and Section 49B inserted w.e.f 1st February, 2019 and Rule 88A of CGST Rules, 2017 inserted w.e.f 29th March, 2019**
- The newly inserted rule 88A in the CGST Rules allows utilization of input tax credit of Integrated tax towards the payment of Central tax and State tax, or as the case may be, Union territory tax, in any order subject to the condition that the entire input tax credit on account of Integrated tax is completely exhausted first before the input tax credit on account of Central tax or State / Union territory tax can be utilized.

Order of utilization of input tax credit after insertion of Rule 88A

Input tax Credit on account of	Output liability on account of Integrated tax	Output liability on account of Central tax	Output liability on account of State tax / Union Territory tax
Integrated tax	(I)	(II) – In any order and in any proportion	
<i>(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily</i>			
Central tax	(V)	(IV)	Not permitted
State tax / Union Territory tax	(VII)	Not permitted	(VI)

Clarification in respect of utilization of ITC under GST (Contd)

- Presently, the common portal supports the order of utilization of input tax credit in accordance with the provisions before implementation of the provisions of the CGST (Amendment) Act i.e. pre-insertion of Section 49A and Section 49B of the CGST Act. Therefore, till the new order of utilization as per newly inserted Rule 88A of the CGST Rules is implemented on the common portal, taxpayers may continue to utilize their input tax credit as per the functionality available on the common portal.

CGST (Fifth Removal of Difficulties) Order, 2019

- **CGST (Fifth Removal of Difficulties) Order, 2019 dated 23rd April, 2019**
- Registration of several persons was cancelled under section 29(2) of the CGST Act, 2017 due to non-furnishing of returns in FORM GSTR-3B or FORM GSTR-4, either from the date of order of cancellation of registration or from a retrospective date.
- Large number of persons whose registration were cancelled could not apply for revocation of the said cancellation of registration within the period of 30 days as provided in section 30(1) of the CGST Act, 2017
- For those whom cancellation order has been passed up to 31st March, 2019, have been given one time opportunity to apply for revocation of cancellation of registration **on or before the 22nd July, 2019.**

Revocation of cancellation of registration

- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-99-18-2019-GST.pdf;jsessionid=A8AE9A08F46E6122172DEC6FF37DB054>
- Circular No. 99/18/2019-GST dated 23rd April, 2019
- One time opportunity to apply for revocation of cancellation given up to 22nd July, 2019 (ROD Order issued)
 - **For cancellation without retrospective effect:**
 - All returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed
 - All returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration.

- **For cancellation with retrospective effect:**
 - The common portal does not allow furnishing of returns after the effective date of cancellation
 - A third proviso has been added to rule 23(1) of the said Rules enabling filing of application for revocation of cancellation of registration, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of thirty days from the date of order of such revocation of cancellation of registration.

Annexure

Return not furnished from	Date of order of cancellation of registration	Cancellation of registration effective from	Date of filing of application for revocation of cancellation of registration as per RoD (to be filed on or before the 22 nd July, 2019)	Returns to be furnished before filing the application for revocation of cancellation of registration	Date of order of revocation of registration	Date of furnishing returns for period b/w date of order of cancellation of registration and date of revocation of cancellation of registration (to be filed within thirty days from the date of order of revocation of cancellation of registration)	Returns to be furnished within thirty days from date of order of revocation of cancellation of registration
July, 18	01 st March, 19	01 st March, 19	30 th May, 19	Returns due till 01 st March, 19 (i.e. July, 18 to January, 19)	01 st June, 19	01 st July, 19	Returns due till 01 st June, 19 (i.e. February, 19 to April, 19)
July, 18	22 nd March, 19	22 nd March, 19	20 th June, 19	Returns due till 22 nd March, 19 (i.e. July, 18 to February, 19)	22 nd June, 19	22 nd July, 19	Returns due till 21 st June, 19 (i.e. March, 19 to May, 19)
July, 18	01 st March, 19	01 st July, 18	30 th May, 19	NA	01 st June, 19	01 st July, 19	Returns due till 01 st June, 19 (i.e. July, 18 to April, 19)

- <https://www.gst.gov.in/newsandupdates/read/269>
- **Auto calculation of route distance based on PIN code for generation of EWB:** E-waybill system is now enabled to auto calculate route distance for movement of goods, based on the Postal PIN codes of source and destination locations given by the user. User is allowed to edit the distance shown, but it will be limited to 10% more than the displayed distance. In case, source PIN and destination PIN are same, the user can enter up to a maximum of 100 kms only. If PIN entered is incorrect, the system would alert the user as INVALID PIN CODE, but he can continue entering the distance.
- **Knowing the distance between two PIN Codes:** Taxpayer can now know the distance between source and destination by selecting “PIN to PIN distance” in Search section on the EWB System home page. Search will show approximate distance between the PINs entered.

- **Blocking of generation of multiple E-Way Bills on one Invoice/document:** EWB system will not allow generation of multiple e-way bills based on one invoice, by any party – consignor, consignee or transporter.
- **Extension of E-Way Bill in case Consignment is in Transit:** The taxpayer or transporter (who has been assigned an EWB) can now extend E-way Bill validity, when goods are in transit. User can login to the EWB portal and navigate to **EWB Module > Extend Validity > Enter EWB Number to fill the form**. On selection of **In Transit**, the address details of the transit place need to be provided by user. On selection of **In Movement** the system will prompt user to enter Mode and Vehicle details.
- **Report on EWB which are about to expire soon:** Users of EWB System can now view the list of EWB about to expire in next three days by logging into the EWB portal and navigating through **Reports > My EWB Reports > EWB about to expire**.

Generation of Electronic Invoice through GST Portal

- http://www.gstcouncil.gov.in/sites/default/files/Committees/OM-for-constitution-of-CoO-for-generation-of_e-Invoice.pdf
- A Committee of Officers has been constituted on Generation of Electronic Invoice through GST Portal to, inter-alia,
 - Study and examine the electronic tax invoice system of South Korea, Latin America and other relevant countries
 - Examine and suggest the target taxpayers and threshold limits
 - Examine impact on the E-way Bill
 - Examine and suggest integration of e-invoice numbering with different accounting systems
 - Examine ease of return filing through auto population and invoice matching



GST Legal Updates

GST Council not to adjudicate on Representations under GST

Case of Union of India Vs Shiyaad reported in 2019-TIOL-888-HC-Kerala-GST

Facts

Respondents, members of the Plastic Recycling Industrial Association' had sent a representation to the GST Council on 27.07.2017 by post alleging that levy of 18% GST on recycled plastic products had made adverse impact on that industry; that a prayer was made for completely withdrawing levy of tax on the said recycled plastic products; that similar representations were also sent on 31.07.2017 to the Central government and the State governments and also to the Secretary of the Health Department of the State; that a Writ Petition was filed on 01.08.2017 for issuing a Writ of Mandamus to the GST Council to dispose of the representation at the earliest etc. Single Judge had by judgment dated 02.08.2017 disposed of the Writ Petition directing the GST Council to consider and pass orders on the representation within a period of one month - UOI and the GST Council have filed appeals challenging the said judgment.

GST Council not to adjudicate on Representations under GST

The Hon'ble High court held as under

Counsel for the Revenue/Council contended that it is not the function of the GST Council to receive representations from the general public and to conduct personal hearings and to pass orders on such representations and, therefore, a writ of mandamus as issued by the Court in the impugned judgment will not lie against the Council.

Bench finds considerable force in this contention by Revenue. It is evident from a reading of the provisions of Article 279A of the Constitution that there is no mechanism provided in the Constitution or any other statute for the GST Council to adjudicate the grievances raised by the general public. There is no mechanism for consideration and disposal of representations made by the general public to the Council after conducting personal hearing of the parties who make such representations. Writ Petitioners have not brought to the notice of the Bench any provision in the Constitution or any other statute which imposes a duty on the GST Council to adjudicate on the grievances raised by the members of the general public with regard to imposition and levy of goods and services tax on any product.

GST Council not to adjudicate on Representations under GST

It is well settled that a mandamus lies to secure the performance of a public or statutory duty in the performance of which the one who applies for it has got sufficient legal interest - An order of mandamus is, in form, a command directed to a person or authority to do a particular thing pertaining to his or its office and in the nature of a public duty.

In order to issue a writ of mandamus to compel a party to do something, it must be shown that the statute imposes a legal duty upon that party and that the person seeking the writ has a legal right under the statute to enforce its performance. The writ of mandamus is limited to the enforcement of the obligation imposed by law. It appears that most probably, even before the receipt of the representations by the authorities concerned, the writ petition was filed before the High Court and which indicates the lack of bonafide in filing the writ petition.

Single Judge has wrongly exercised his discretion in issuing a direction to the GST Council. Consequently writ appeal is allowed and the impugned judgment is set aside.

Case of Megha Engineering And Infrastructures Ltd Vs CCT reported in 2019-TIOL-893-HC-Telangana-GST

Facts: Case of the petitioner is that the GST portal is designed in such a manner that unless the entire tax liability is discharged, the system will not accept the return in Form GSTR-3B; that, for example, even if an assessee was entitled to set off to the extent of 95% by utilizing ITC, the return cannot be filed unless the remaining 5% is also paid - There was an delay on the part of the petitioner in filing the return for the period October 2017 to May 2018 and which was due to shortage of ITC available to offset the entire tax liability - total tax liability of the petitioner for the period July 2017 to May 2018 was Rs.1014,02,89,385/- and the ITC available during this period was Rs.968,58,86,133/- and the shortfall to the extent of Rs.45,44,03,252/- was required to be paid by way of cash - however, due to certain restraints they could not make the payment and file return within the due date but the entire liability was discharged in May 2018 - Consequently, the dept demanded interest @18% in terms of s.50 of the CGST Act, 2017.

Interest mandatorily payable on gross tax liability on delayed payment of GST

Case of Megha Engineering And Infrastructures Ltd Vs CCT reported in 2019-TIOL-893-HC-Telangana-GST

Facts (Contd...)

Petitioner replied that interest is to be calculated only on the net tax liability after deducting ITC from the total tax liability and thereafter they paid an amount of Rs.30,92,522/- towards interest on their net tax liability. However, since the department has demanded interest on the total tax liability, the petitioner is before the High Court.

Decision of the Hon'ble High Court

There can be no doubt about the fact that even in respect of input tax credit available in the electronic credit ledger, there is a necessity to make payment. Once it is statutorily prescribed that payment can be made either by way of cash or from out of the credit available in the electronic credit ledger, the date of payment in respect of both assumes significance for determining the liability to pay interest.

Decision of the Hon'ble High Court (Contd....)

In view of s.50(1), the liability to pay interest arises automatically, when a person who is liable to pay tax fails to pay the tax to the Government within the prescribed period - liability to pay interest is in respect of the period for which the tax remains unpaid. Moreover, liability to pay interest u/s 50(1) arises even without any assessment as the person is required to pay such interest on his own. It is, therefore, clear that liability to pay interest u/s 50(1) is self-imposed and also automatic without any determination by any one. Stand taken by the department that the liability is compensatory in nature appears to be correct. In terms of s.39(1) and s. 39(7), period prescribed for payment of tax in respect of every month is on or before the 20th day of the succeeding calendar month - in the entire scheme of the Act, three things are of importance viz. entitlement of a person to take credit of eligible input tax as assessed in his return, the credit of such eligible input tax in his electronic credit ledger on a provisional/regular basis and the utilisation of credit so available in the electronic credit ledger for making payment of tax, interest and penalty etc.

Interest mandatorily payable on gross tax liability on delayed payment of GST

Decision of the Hon'ble High Court (Contd....)

until a return is filed as self-assessed, no entitlement to credit and no actual entry of credit in the electronic credit ledger takes place. It is only after a claim is made in the return that the same gets credited in the electronic credit ledger and it is only after a credit is entered in the electronic ledger that a payment could be made even though the payment is only by way of paper entries -for example, an amount available in the account of a person, though available with the bank itself, is not taken to be the money available for the benefit of the bank - money available with the bank is different from money available for the bank till the bank is allowed to appropriate it to itself - similarly, the tax already paid on the inputs of supplies of goods and services available somewhere in the air should be tapped and brought in the form of credit entry in the electronic credit ledger and payment has to be made from out of the same -

Interest mandatorily payable on gross tax liability on delayed payment of GST

Decision of the Hon'ble High Court (Contd....)

if no payment is made, the mere availability of the same will not tantamount to actual payment - as the payment of the tax liability, partly in cash and partly in the form of claim for ITC was made beyond the period prescribed, the liability to pay interest u/s 50(1) arises automatically and the petitioner cannot escape from this liability. Only when the payment is made, the Government gets a right over the money available in the ledger.

Since ownership of such money is with the dealer till the time of actual payment, the Government becomes entitled to interest up to the date of their entitlement to appropriate it. Recommendations of the GST Council in its 31st meeting that interest should be charged only on the net tax liability of the taxpayer after taking into account the admissible input tax credit as communicated in the Press Release of the Ministry of Finance are still on paper and, therefore, High Court cannot interpret section 50 of the CGST Act in the light of the proposed amendment. The claim made by the respondent for interest on the ITC portion of the tax cannot be found fault with - Writ Petition is 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_GoI
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU