

GST Update

Weekly Update
28.09.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 21.09.2019. 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

Sabka Vishwas (LDR) Scheme 2019

- **Circular No. 1072/05/2019-CX dated th September, 2019**
- Only the persons eligible in terms of Section 125 can file a declaration under the Scheme. The eligibility conditions are captured in Form SVLDRS-1 (Sr. No. 8). The system automatically disallows persons who are not eligible from filing a declaration. However, there is a possibility that such ineligible persons may still make a declaration by selecting an incorrect response.
- However, such person is able to file a declaration if he/she incorrectly indicates 'No' as the answer even though he/she has been convicted. Such declarations are void and do not merit consideration under the Scheme.
- Such persons may be informed of their ineligibility through a letter.

- Section 124(1)(a) outlines the relief available in the case of one or more appeals arising out of a Show Cause Notice. Such an appeal may have been filed either by the party or by the department. Further, Section 127(6) provides for deemed withdrawal of such appeals filed by a declarant pending at a forum other than the Supreme Court or High Court. It is clarified that such deemed withdrawal will also be applicable for departmental appeals. Further, where a departmental appeal, reference or writ petition is pending before the Supreme Court or High Court, the department will file an application for withdrawal of such appeal, reference or writ petition after issuance of the discharge certificate.
- Similarly, if prosecution has already been launched, the procedure as laid down in Circular No. 1009/16/2015-CX dated 23-10-2015 should be followed for withdrawal of prosecution after issuance of discharge certificate.

SV (LDR) Scheme 2019 (Contd)

- One of the category of cases for which a declaration can be made under the Scheme is where the declarant has filed a return but not paid duty. A separate declaration will need to be filed for each such return.
- Relief available under Section 124(1)(c) will be applied to the net outstanding amount so arrived at. It may be noted that in respect of all other categories, any money paid before its appropriation is in the nature of a deposit only. Hence, in respect of declarations made under these other categories, the relief will be applied to the outstanding amount and, only thereafter the pre-deposits/deposits [Section 124(2)] shall be adjusted.
- Example: Taxpayer has outstanding arrears of confirmed duty demand of Rs. 1 crore and he has already paid Rs. 60 lakhs. So, the amount of tax dues is Rs 40 lakhs. After applying applicable relief @ 60%, the amount payable under the Scheme is Rs 16 lakhs.

SV (LDR) Scheme 2019 (Contd)

- Section 125(1)(f) bars a person from making voluntary disclosure after being subjected to an enquiry or investigation or audit. It is clarified that the Designated Committee concerned may take a view on merit, taking into account the facts and circumstances of each case as to whether the provisions of Section 125(1)(f) are attracted in such cases.
- Section 125(1)(a) excludes cases which are under appeal and where final hearing has taken place on or before 30th June, 2019 from the purview of the Scheme. Similar exclusion has been made applicable, mutatis mutandis, under Section 125(1)(c) to cases under adjudication. It is clarified that such cases, however, may still fall under the arrears category once the appellate or adjudication order, as the case may be, is passed and has attained finality or appeal period is over, and other requirements under the Scheme are fulfilled.

SV (LDR) Scheme 2019 (Contd)

- Section 121(c) (i) and (ii) define “an amount in arrears” as the amount of duty which is recoverable, inter alia, on account of no appeal having been filed by the declarant against an order or order in appeal before the expiry of the period of time for filing of appeal or the order in appeal having attained finality. There may be situations where the taxpayer does not want to file an appeal even though the time period for filing of appeal is not over.
- It is clarified that in such cases, the taxpayer can file a declaration under the Scheme provided he gives in writing to the Department that he will not file an appeal. This declaration shall be binding on the taxpayer.

- **Notification No. 42/2019 – Central Tax dated 24th September, 2019**
- The provisions of clause 10, 11, 12 and 26 of the CGST (Fourth Amendment) Rules, 2019 [notification No. 31/2019– Central Tax dated 28th June, 2019] come into force w.e.f 24.09.2019
- In Rule 91(Grant of provisional refund), 92(Order sanctioning refund), 94(Order sanctioning interest on delayed refunds) and FORM GST RFD-05(Refund Payment Order)- for the words “payment advice”, the words “payment order” shall be substituted- at all the places where they occur.

Online processing of refund applications and single authority disbursement

Refunds



- Online refund processing (End to End) has been deployed by GSTN. Consequently, refund ARNs generated from 26.09.2019 onwards would be processed online , including issuance of GST RFD-04, GST RFD-06 orders and disbursement of all tax heads like CGST/IGST/Cess and SGST/UTGST throughout India
- Single authority disbursement has been implemented.
- Refund applications filed by the taxpayers in RFD-01 form shall be processed electronically/ online by the tax-officer and all communications between the tax officers and the taxpayers shall take place electronically.
- Refund amount shall be disbursed by accredited bank of CBIC through the Public Financial Management System (PFMS) after bank account validation.

New Refund Functionalities

- Form GST RFD-01 – Application for Refund (Rule 89(1) of the CGST Rule, 2017); Form GST RFD-02 - Sending Acknowledgement (Rule 90(1), 90(2) & 95(2)); Form GST RFD-03 - Raising Deficiency Memo (Rule 90(3))
- Form GST RFD-04 - Issuing Provisional Refund Order (Rule 91(2)); Form GST RFD-06 - Issuing Final Refund Order (Rule 92(1), 92(3), 92(4), 92(5) & 96(7)); Form GST RFD-05 - Generating Payment Order (Rule 91(3), 92(4), 92(5) & 94)
- Form GST RFD-07B - Withholding Refund (Rule 92(2) & 96(6))
- Form GST RFD-08 - Sending Show Cause Notices by tax official (Rule 92(3))
- Form GST RFD-09 - Reply to Show cause notice by taxpayer (Rule 92(3))
- Form GST PMT 03 - For re-credit of inadmissible ITC (Rule 86(4) & 87(11))

- Online refund processing functionality has been deployed. The taxpayers can file refund application (in Form GST RFD 01) and the tax officers can process the refund application, online.
- Form GST RFD-05 - Generating Payment Order (Rule 91(3), 92(4), 92(5) & 94) After processing the refund application the tax officials will issue payment order online and the amount will be refunded/ credited to taxpayer's account, as provided by them in their refund application.
- In case validation of bank account number given by the taxpayer fails, intimation will be sent to taxpayer about the same and the taxpayer will be required to correct bank account details, so that refund amount can be credited to their bank account.

- In the new system, after processing is completed by the tax officer, the sanctioned amount will get credited to the bank account of the Taxpayer through the accredited bank of Government and through the PFMS System.
- All communications between the taxpayers and the tax officers will be online. Taxpayers can view the various stages of processing of their refund application and can give replies to notice, if any, online on the GST Portal now. They will also be given information via SMS and Email, at important stages of processing of their refund application.
- All refund applications filed in RF0D1A form and before 25th September, 2019 will be processed manually and disbursed as done under the previous refund process.

- <https://tutorial.gst.gov.in/downloads/advisory.pdf>
- GSTN has issued an “Online refund processing and single authority disbursement : Advisory for taxpayers”
- **RFD-01:** The taxpayers were filling refund application in form RFD-01A online. The RFD-01A form has been disabled on the portal. The taxpayer shall be able to file his refund application in form RFD-01 now.
- However, the taxpayer shall be able to view the status of RFD-01A applications also along with the new ones.
- The bank account details mentioned in the refund application shall be validated by PFMS after filing of RFD-01. The taxpayers must ensure that the bank account details selected in the refund application are valid and correct.

Advisory for Taxpayers (Contd)

- The taxpayer will need to change/ edit the bank account details (through non-core amendment in registration in REG-14) if there is failure of bank account validation by PFMS. After performing this step, the taxpayer needs to enter the updated bank account by clicking on 'Update Bank Account' functionality provided with the ARN of the refund application.
- The taxpayer shall be able to view the status of bank account validation on his dashboard. It will also be communicated through e-mail/ SMS.

- **RFD-02(Acknowledgement)** : The tax officer issued RFD-02 manually. The tax officer shall issue RFD-02 electronically to the taxpayer. The taxpayer shall be able to view the acknowledgement in RFD-02 on his dashboard. The taxpayer will also receive communication through email and SMS
- **RFD-03(Deficiency Memo)**: The tax officer shall issue RFD-03 electronically to the taxpayer. With the issuance of RFD-03, the ITC/ cash will get recredited to the electronic credit/ cash ledger of the taxpayer. The taxpayer shall be able to view the deficiency memo in RFD-03 on is dashboard. Once RFD-03 has been issued against an ARN, the taxpayer is required to file a fresh refund application. The taxpayer will receive communication through email and SMS.

- **RFD-04 (Provisional Refund Order):** The tax officer shall issue RFD-04 electronically to the taxpayer. The taxpayer shall be able to view the provisional sanction order in RFD-04 on his dashboard. The taxpayer will receive communication through email and SMS.
- **RFD-05 (Payment Order):** The tax officer shall issue RFD-05 electronically to the taxpayer. The tax officer is not required to send the copy of RFD-05 to the central nodal authority and state AAs. The taxpayer shall be able to view the payment order in RFD-05 on his dashboard. The bank account details mentioned in the refund application shall be validated by PFMS after issuance of RFD-05 by the tax-officer.

- **RFD-05 (Payment Order):** The taxpayer will need to change/edit the bank account details (through non-core amendment in registration in REG-14) if there is failure of bank account validation by PFMS. After performing this step, the taxpayer needs to enter the updated bank account by clicking on 'Update Bank Account' functionality provided with the ARN of the refund application.
- The taxpayer shall be able to view the status of bank account validation and disbursement on his dashboard. The taxpayer will receive communication through email and SMS

- **RFD-06 (Final refund order):** The tax officer shall issue RFD-06 electronically to the taxpayer. The taxpayer shall be able to view the final sanction/ rejection order in RFD-06 on his dashboard.
- **RFD-07B (Withholding Order):** The tax officer shall issue RFD-07B electronically to the taxpayer. The taxpayer shall be able to view the withhold order in RFD-07B on his dashboard.
- The taxpayer will receive communication through email and SMS

- **RFD-08(Show Cause Notice):** The tax officer shall issue RFD-08 electronically to the taxpayer. The taxpayer shall be able to view the show cause notice in RFD-08 on his dashboard. The taxpayer is expected to give reply to the SCN within 15 days of receipt of the SCN. If the taxpayer doesn't respond within 15 days of the issuance of SCN, the tax officer can take action on the refund application. The taxpayer will receive communication through email and SMS.
- **RFD-09(Reply to Show Cause Notice by the Taxpayer):** The taxpayer is required to reply the SCN electronically/online in RFD-09 form which would be available on his dashboard. The taxpayer shall be able to reply to the SCN and upload supporting documents electronically through RFD-09. The tax officer may not process the reply to the SCN if not given electronically in RFD-09 by the taxpayer.

- **PMT-03(Order for Recredit of Rejected Amount):** The tax officer shall issue PMT-03 electronically. With the issuance of PMT-03, the inadmissible ITC shall get recredited to the electronic credit ledger of the taxpayer automatically.
- The taxpayer is required to give an undertaking that he will not file an appeal against the refund order if he/she desires to get a recredit of the rejected amount. This undertaking has to be submitted to the tax officer manually. The taxpayer shall be able to view the recredit order in PMT-03 on his dashboard.



GST Legal Updates

Best Judgement Assessment under GST – Time period cannot be extended

**Case of Bridge Hygiene Services Vs State Tax Officer
reported in 2019-TIOL-2230-HC-Kerala GST; WP.No.25066
of 2019 (G) dt:23-09-2019**

Facts: Petitioner defaulted in filing of returns from July 2018 onwards. The case of the petitioner is that although there is a provision under the Act for an automatic setting aside of the best judgment assessment in circumstances where the registered dealer furnishes a valid return within 30 days of service of the assessment order, the petitioner sees this provision as futile in his case inasmuch as even if the petitioner were to file the returns within the extended time of 30 days from the date of receipt of the best judgment assessment orders, he would not be in a position to pay the admitted tax liability as reflected from the returns.

Best Judgement Assessment under GST – Time period cannot be extended

Decision of the Hon'ble High Court

Statutory provisions are clear with regard to the time frame within which the assessee has to file his return and pay tax based on the said returns if he wants the assessment done on best judgment basis to be cancelled. Statutory provisions enable the assessee, who is aggrieved by the assessment order passed on best judgment basis, to furnish his returns within a further period of 30 days and pay tax thereon on the basis of the return filed by him, and in that event, the order of the proper officer passed on best judgment basis will stand automatically withdrawn. Petitioner informs that he would not be able to pay the admitted tax liability on account of paucity of funds. Statutory prescription of 30 days from the date of receipt of the assessment order passed under sub section (1) of Section 62 has to be strictly construed against an assessee and in favour of the revenue, since this is a provision in a taxing statute

Best Judgement Assessment under GST – Time period cannot be extended

Decision of the Hon'ble High Court

that enables an assessee to get an order passed against him on best judgment basis set aside. The provision must be interpreted in the same manner as an exemption provision in a taxing statute. Court may not be justified in granting an extension of the period contemplated under sub section (2) of Section 62, so as to enable the assessee to file a return beyond the said period for the purposes of getting the benefit of withdrawal of an assessment order passed on best judgment basis under Section 62(1) of the GST Act. Under such circumstances, prayer sought for in the writ petition cannot be granted. Writ petition fails 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_GoI
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU