

# GST Update

Weekly Update  
30.11.2019

# Background

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 23.11.2019. 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

# Extension of due dates for filing of returns

- **Notification No. 57/2019-Central Tax ,dated 26<sup>th</sup> November, 2019**
  - Extends the due date for furnishing of return in FORM GSTR-1 for registered persons in Jammu and Kashmir having aggregate turnover more than 1.5 crore rupees for the months of July, 2019 to September, 2019 to 30<sup>th</sup> November, 2019
- **Notification No. 58/2019 – Central Tax dated 26<sup>th</sup> November, 2019**
  - Extends the due date for furnishing of return in FORM GSTR-1 for registered persons in Jammu and Kashmir having aggregate turnover more than 1.5 crore rupees for the month of October, 2019 to 30<sup>th</sup> November, 2019

# Extension of due dates for filing of returns (Contd)

- **Notification No. 60/2019-Central Tax ,dated 26<sup>th</sup> November, 2019**
- Extends the due date for furnishing of return in FORM GSTR-3B for registered persons in Jammu and Kashmir for the months of July, 2019 to September, 2019 to 30<sup>th</sup> November, 2019
- **Notification No. 61/2019 – Central Tax dated 26<sup>th</sup> November, 2019**
- Extends the due date for furnishing of return in FORM GSTR-3B for registered persons in Jammu and Kashmir for the month of October, 2019 to 30<sup>th</sup> November, 2019

- **Notification No. 26/2019- Central Tax (Rate) dated 22<sup>nd</sup> November, 2019**
- Seeks to insert following explanation regarding Bus Body Building in Notification No. 11/2017-Central Tax (Rate) dt. 28.06.2017
- *“Explanation- For the purposes of this entry, the term “bus body building” shall include building of body on chassis of any vehicle falling under chapter 87 in the First Schedule to the Customs Tariff Act, 1975”*

- <https://www.gst.gov.in/newsandupdates/read/335>
- Government has made some changes in the forms of Annual Return (GSTR-9) and the Reconciliation Statement (GSTR-9C) vide Notification No. 56/2019 dated 14.11.2019.
- These changes **do not impact** the current tools required for preparation and filing of GSTR-9 and GSTR-9A for the financial year 2017-18. For GSTR-9C, some changes are required in the offline tool and online which is under development and is likely to be made available by 10<sup>th</sup> December, 2019.

# Advisory for taxpayers filing refund application (RFD-01)

- [https://tutorial.gst.gov.in/downloads/news/tips\\_refund.pdf](https://tutorial.gst.gov.in/downloads/news/tips_refund.pdf)
- Taxpayers are expected to upload the supporting documents while filing their refund application (Form GST RFD-01). The GST Common Portal allows taxpayers to upload 4 documents up to 5 MB each (total 20 MB).
- **What is a documents?** The document here does not mean one invoice or one credit/debit note but a set of invoices or credit/debit notes scanned together so that the size of scanned document containing them is less than or equal to 5 MB.
- There is no limit to the number of invoices/credit notes etc. You can scan and upload, till size of the scanned document containing multiple pages is less than or equal to 5 MB. How can multiple invoices/ debit/ credit notes be included in one document?

## Advisory for taxpayers filing refund application RFD-01 (Contd)

- [https://tutorial.gst.gov.in/downloads/news/tips\\_refund.pdf](https://tutorial.gst.gov.in/downloads/news/tips_refund.pdf)
- Some scanners can scan multiple documents and convert the images into a single pdf document. Whereas some scanners allow only one scan at a time. For such scanners, the taxpayers can scan the invoices/ debit/ credit notes, insert them sequentially in one word document and save the word document in PDF format. It is advised that the size of the scanned invoices/ debit/ credit notes be kept low.
- To find out the size of your scan/ document, right-click on the thumbnail of your scan in the Document Viewer and select "Properties." Look for the number beside "File Size." If your scan is too large (larger than 5MB), try one or more of the following to reduce the file size.



# Transition Plan for J&K (w.e.f 31<sup>st</sup> October, 2019)

- **Section 95 of the Jammu and Kashmir Re-organisation Act, 2019.**
  - (1) All Central laws in Table -1 of the Fifth Schedule to this Act, on and from the appointed day, shall apply in the manner as provided therein, to the Union territory of Jammu and Kashmir and Union territory of Ladakh
  - (2) All other laws in Fifth Schedule, applicable to existing State of Jammu and Kashmir immediately before the appointed day, shall apply in the manner as provided therein, to the Union territory of Jammu and Kashmir and Union territory of Ladakh.
- The Jammu and Kashmir Goods and Services Tax Act, 2017 is in table 4 of fifth schedule and thus shall apply to UT of Jammu and Kashmir and UT of Ladakh

# Jurisdiction of Jammu Commissionerate over UT of J&K and UT of Ladakh

- **Notification No. 51/2019 – Central Tax dated 31<sup>st</sup> October, 2019-** Amends Notn No. 02/2017- Central Tax, dated the 19<sup>th</sup> June, 2017 and notifies -
- Jurisdiction of Pr. Commr/ Commr of Central Tax, Jammu as
  - Union territory of Jammu and Kashmir and Union territory of Ladakh

## Transition plan for J & K

- **Notification No. 62/2019-Central Tax ,dated 26<sup>th</sup> November, 2019**
- Notifies the transition plan with respect to J&K reorganization w.e.f 31.10.2019
- Those persons whose principal place of business or place of business lies in the erstwhile State of Jammu and Kashmir till the 30<sup>th</sup> October, 2019; and lies in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31<sup>st</sup> October, 2019 onwards, as the class of persons who shall follow the following special procedure till the 31st day of December, 2019( the transition date)

- The said class of persons shall:—
  - i. ascertain the **tax period** as per section 2(106) of the said Act for the purposes of any of the provisions of the said Act for the month of October, 2019 and November, 2019 as below:
    - **October, 2019**: 1<sup>st</sup> October, 2019 to 30<sup>th</sup> October, 2019;
    - **November, 2019**: 31<sup>st</sup> October, 2019 to 30<sup>th</sup> November, 2019;
  - ii. irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from 31<sup>st</sup> October, 2019 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

- **The said class of persons shall:—**
  - iii. have an option to transfer the input tax credit (ITC) from the registered GSTIN, till the 30<sup>th</sup> October, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31<sup>st</sup> October by following the procedure as below-
  - iv. the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration

- **The said class of persons shall:—**
  - iii. the ITC shall be transferred on the basis of ratio of turnover of the place of business in the Union territory of Jammu and Kashmir and in the Union territory of Ladakh;
  - iv. the transfer of ITC shall be carried out through the return under section 39 of the said Act for any tax period before the transition date and the transferor GSTIN would be debiting the said ITC from its electronic credit ledger in Table 4 (B) (2) of FORM GSTR-3B and the transferee GSTIN would be crediting the equal amount of ITC in its electronic credit ledger in Table 4 (A) (5) of FORM GSTR-3B

## Transition plan for J& K (Contd)

- The balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 31<sup>st</sup> October, 2019, shall be transferred as balance of Union territory tax in the electronic credit ledger.
- The provisions of section 24(i) of the said Act shall not apply on the said class of persons making inter-State supplies between the Union territories of Jammu and Kashmir and Ladakh from the 31<sup>st</sup> October, 2019 till the transition date.





# GST Portal Updates

# Blocking/ Unblocking of EWB generation facility

- The taxpayers who have not filed GSTR 3B return for two consecutive tax periods, will now be blocked for EWB generation facility on EWB Portal.
- Thus taxpayers who have not filed their GSTR-3B return for the months of September, 2019 and for October, 2019, will be blocked for EWB generation from 2<sup>nd</sup> December, 2019.
- The list of the taxpayers who filed their GSTR 3B returns and thus not remaining as defaulters of non-filing of two or more GSTR 3B return, is prepared by GST System next day and the same is provided to EWB system for unblocking of their EWB generation facility, daily. On receipt of the list of GSTINs their EWB generation facility is unblocked on EWB Portal, immediately.

# Blocking/ Unblocking of EWB generation facility (Contd)

- Meanwhile, if required taxpayers can login into EWB Portal and update their return filing status, same day by update return filing status functionality. On doing so EWB System updates return filing status of the taxpayer from the GST System and unblock EWB generation facility for the taxpayer, if taxpayer is not a defaulter in non-filing of two or more GSTR 3B returns.
- The taxpayers whose EWB generation is blocked can also approach jurisdictional tax officials, for unblocking of their EWB generation facility. The tax officials will issue orders on GST Portal, for accepting or rejecting such manual request of the taxpayers.

- Taxpayers can now see all the GSTINs mapped to same PAN across India, at the time of filing the Part A of the registration application form for new registration, on same PAN.
- Taxpayers applying for registration as OIDAR can now give details of their authorised representative appointed in India ( Name, PAN, Mail & mobile number) in Part A of the registration Form GST REG 10.
- The validation of unique combination of same PAN, Email and Mobile number has been removed while filing registration application by already registered taxpayers. Now another registration can be taken by already registered taxpayers (Normal, Composition, Casual, TDS, TCS, GSTP) by giving same (or any) combination of PAN, Email or Mobile number.



# GST Legal Updates

# Directions by the Hon'ble Courts to dispose the representation by GST Council

- <http://www.cbic.gov.in/resources//htdocs-cbec/legalaffairs/Instruction-dated-20.11.2019.pdf>
- **CBIC Legal Cell Instructions F.No.276/187/2018-CX.8A Part dated 20<sup>th</sup> November, 2019**
- The Ld. Single Judge in his judgment dated 02.08.2017, in W.P.(C) No. 25613/2017 in the case of M/s Plastic Recycling Industrial Association, directed the GST Council to “*consider and pass orders on*” the representation submitted by the Petitioner, “*within a period of one month from the date of receipt of a copy of*” the judgment, “*after hearing the parties*”.

# Directions by the Hon'ble Courts to dispose the representation by GST Council (Contd)

- Hon'ble Court – in W.A. No. 2061 of 2017- Ld. Division Bench- vide order dated 11.04.2019- set aside the impugned judgment dated 02.08.2017. The Hon'ble Court held that on perusal of Article 279A of the Constitution of India, *“it is evident that there is no mechanism provided in the Constitution or any other statute for the Goods and Services Tax 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.”*
- The judgment dated 11.04.2019 may kindly be considered by field formations before filing any affidavit before the Courts under similar circumstances.

# Arbitrary and illegal detention not to be resorted to – Erodes Confidence of Public in Tax Administration

- **Case of Alfa Group Vs Assistant State Tax Officer reported in 2019-TIOL-2701-HC-KERALA-GST.**
- During the relevant period, certain goods belonging to the petitioner were detained in a parcel godown, on grounds that the value quoted in the invoice accompanying the goods was low, compared to the Maximum Retail Price of the goods - It was also alleged that the HSN code of the goods was incorrect - The petitioner claimed that the reasons given in the detention order did not justify detention of goods u/s 129 or u/s 130 - Hence the present writ was filed, seeking directions to release the goods



# Arbitrary and illegal detention not to be resorted to – Erodes Confidence of Public in Tax Administration

## • **Decision of the High Court**

- It is found that none of the reasons stated in the order justify the detention of the goods. No provision under the GST Act mandates that the goods should not be sold at prices below the MRP declared. Nothing exists in the detention order to show that on account of the alleged wrong classification of the goods, there was any difference in the tax rate adopted by the assessee. When the scheme of the GST Act is to facilitate free movement of goods after self-assessment by the assessee, the Revenue cannot resort to arbitrary and legally unwarranted detention of goods in the course of transit - Such actions erode public confidence in the tax administration system and the

# Arbitrary and illegal detention not to be resorted to – Erodes Confidence of Public in Tax Administration

## • Decision of the High Court

Economy. Hence the detention order merits being quashed and the Revenue authorities concerned are directed to release the goods belonging to the petitioner. Suitable instructions may also be issued to field formations to refrain from resorting to such unwarranted detention of goods

# Delhi HC directs Govt to re-examine Sec. 109 of CGST Act in the light of decision of Hon'ble Apex Court in Roger Mathew



- **Case of Bharatiya Vitta Salahkar Samiti Vs UoI reported in 2019-TIOL-2639-HC-Del-GST**

- **Facts**

- The Petitioner challenges s.109 of the CGST Act as being ultra vires; seeks a direction to the respondents to not take steps for appointment and/or constitution of GSTAT.

# Delhi HC directs Govt to re-examine Sec. 109 of CGST Act in the light of decision of Hon'ble Apex Court in Roger Mathew

## • Decision of the High Court

Madras High Court 2019-TIOL-2188-HC-MAD-GST has by its decision struck down s.110(1)(b)(iii) as well as s.109(3) and 109(9) of the CGST Act and recommended to the Parliament that it must consider amendment to the relevant sections to include Lawyers to be eligible to be appointed as Judicial Members to the Appellate Tribunal in view of the issues which are likely to arise for adjudication under the CGST Act and in order to maintain uniformity in various statutes. A perusal of the decision of the Supreme Court in Rojer Mathew [ 2019-TIOL-495-SC-MISC-CB ] clearly shows that the said decision would have a serious bearing on the challenge raised by the

# Delhi HC directs Govt to re-examine Sec. 109 of CGST Act in the light of decision of Hon'ble Apex Court in Roger Mathew

## • Decision of the High Court

petitioner in the present case as well. Bench, therefore, directs the respondents and particularly respondent Nos. 2, 3 and 4 to examine the position as emerging from the decision in Rojer Mathew (supra) and to consider formulation of appropriate amendments in the CGST Act so that the provisions of the said Act do not continue to fall foul of the said decision. Respondents to do the needful and place on record a status report before the next date of hearing after due application of mind and examination of all the aforesaid aspects. Matter posted on 05.02.2020:

## Any ISSUES/ queries?

- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
  - 1800 1200 232
  - [cbecmitra.helpdesk@icegate.gov.in](mailto: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](https://twitter.com/askGST_Gol)
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- [https://twitter.com/NACIN\\_OFFICIAL](https://twitter.com/NACIN_OFFICIAL)

**THANK YOU**