

GOODS AND SERVICES TAX

Monthly Highlights of News, Legislative Reforms, Statutory Changes and Judicial Pronouncements Related to GST

July, 2019
Vol. 2, Issue 7

GST collections rise marginally to Rs 1.02 lakh crore in July, 2019

The gross GST collections stood at Rs. 1.02 lakh crore in July, marginally up from the previous month. CGST collections stood at Rs. 17,912 crore, SGST Rs. 25,008 crore, and IGST Rs. 50,612 crore (including Rs 24,246 crore collected on imports) during this month. The cess collection stood at Rs 8,551 crore (including

Rs 797 crore collected on imports). The number of GSTR 3B Returns filed for the month of June up to end-July totalled 75.79 lakh. As per the statement released by Government, Rs 17,789 crore has been released to the states as GST compensation for April-May, 2019.

Source: PTI, 01/08/2019

36th GST COUNCIL MEETING

The 36th GST Council meeting via video conference was held on 27 July 2019. The meeting, chaired by Smt. Nirmala Sitharaman, Chairperson, GST Council, was primarily called to decide GST rate on electric vehicles (EVs). This was in pursuance of the budget announcement and the report of fitment committee, constituted by the last Council meeting, to study the feasibility of rate reduction. The Council has reduced the GST rate on EV from 12 to 5 per cent. The GST rate on chargers or charging stations for EVs has also been slashed from 18 to 5 per cent. Further, the e-buses with seating capacity exceeding 12 passengers can be hired by the local authorities without paying GST. The above changes will come into effect from 1 August 2019. The GST rate cut will give a major boost to the EV market in India, which is still in a nascent stage. Apart from this, the Council has also extended the time limit to opt for Composition Scheme in form CMP-02 till 30 September 2019. Only the service providers under notification No. 2/2019-CT (rate) dated 7 March 2019 can avail the benefit of this extension. The deadline was earlier announced to be 31 July 2019. The due date for paying GST in CMP-08 for the quarter April--June 2019 has also been further extended to 31 August 2019 from the earlier due date of 31 July 2019.

Source: PIB, 27/07/2019

UNION BUDGET 2019

The Union Budget 2019 has given credit to the GST Council for shaping GST towards success. Smt. Nirmala Sitharaman, Union Finance Minister, said that the indirect tax landscape has changed significantly with the implementation of GST. In every sense, this has been a monumental reform. Centre and States coming together and agreeing to pool in their sovereign power of taxation for common good of the country was unprecedented. 17 taxes and 13 cesses became one tax. Multitude of tax rates instantly became four. Almost all commodities saw rate reduction. Tens of returns were replaced by one. Taxpayer's interface with tax departments got reduced. Border check posts got eliminated. Goods started moving freely across States,

which saved time and energy. Thus, the dream of one nation, one tax, and one market was realised. The GST Council deserves all the credit for this. Initially, the GST Council was faced with many challenges considering the scale of the reform, but the Council, Centre and States worked together to resolve these issues. GST rates have also been reduced significantly, whereby relief of about Rs.92,000 crore per year has been given.

Reforms to reduce compliance burden

The budget states that the government is in the process of taking initiatives to reduce compliance burden. A simplified single monthly return is being rolled out. Taxpayers having annual turnover of less than Rs. 1.5 crore shall file quarterly return. Free accounting software for return preparation has been made available to small businesses. A fully automated GST refund module shall be implemented. Multiple tax ledgers for a taxpayer shall be replaced by one. It is also proposed to move to an electronic invoice (e-invoice) system wherein invoice details will be captured in a central system at the time of issuance. This will eventually be used to prefill the taxpayer's returns. There will be no need for a separate e-way bill. Its roll out would begin from January 2020. The e-invoice system will significantly reduce the compliance burden.

Is the rationalised GST target still too ambitious?

The government rationalised its target for tax revenue collection in 2019-20. Instead of the projected collections in the interim budget of Rs. 25.52 trillion, this budget pegged the government's gross tax revenues at Rs. 24.62 trillion. A large part of this lowered revenue expectation came from reducing the Centre's targeted revenue from the GST. The GST target for 2019-20 was brought down from the interim budget figure of Rs. 7.61 trillion to Rs. 6.63 trillion. The government believes that this is achievable. However, compared to the provisional actual numbers this is still high. It depends on the underlying assumptions the government has made on growth of economy and improvement in compliance levels contributing to rise in GST collections.

GST Receipts and Estimates

Particulars	2017-18 (Actual)	2018-19 (BE)	2018-19 (RE)	2019-20 (BE)
CGST	203261.40	603900.00	503900.00	526000.00
IGST	176688.44	50000.00	50000.00	28000.00
Compensation Cess	62611.59	90000.00	90000.00	109343.00
Total	442561.43	743900.00	643900.00	663343.00

Note: Figures in crore.

Source: Budget documents, 2019-20

Electric vehicles to get more benefit

The 35th GST Council meeting has already taken initiatives to decrease the GST rate on Electric Vehicles (EVs) from 12 to 5 per cent. In addition, the budget announced that there will be an additional income tax deduction of Rs. 1.5 lakh on the interest paid on the loans taken to purchase EVs. The decision on incentivising EV manufacturing by extending benefits under Section 35AD (1) is a move in the right direction to make India an EV manufacturing hub. It will help in the creation of a local manufacturing base and encourage component manufacturers to invest in the sector.

Amnesty scheme to end past litigations

A large number of litigations related with pre-GST regime are pending with various judicial forums. More than Rs. 3.75 lakh crore is blocked in litigations in service tax and excise duty. There is a need to unload this baggage and allow business to move on. Hence a Legacy Dispute Resolution Scheme will be introduced, which will allow quick closure of these litigations. The Finance Minister urged the trade and business to avail this opportunity and become free from legacy litigations.

KERALA

Kerala Flood Cess implemented from 1st August 2019

Finally, the Government of Kerala started to levy 1 per cent Kerala Flood Cess (KFC) from 1st August, 2019. Earlier, the State was compelled to extend the date of implementation twice due to the amendment required in the CGST Rules. The 35th GST Council held on 21st June 2019 had taken a decision to amend CGST Rules, 2017 by insertion of a new rule 32A. It states that, the value of supply of goods or services or both on which Flood Cess is levied under clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of section 15 of the Act. In this context, the state decided to levy 1 per cent Cess for B2C transactions from the first day of August 2019. Flood Cess needs to be paid separately to the State Government along with a separate Return Form No. KFCA which is to be filed within the date prescribed for GSTR 3B. Also, Flood Cess must be calculated only on Taxable value ie, Sale value of Goods or Services. For example;

Sale value	-	Rs. 1,000.00
CGST @ 9%	-	Rs. 90.00
SGST @ 9%	-	Rs. 90.00
K.F.C @ 1%	-	Rs. 10.00
Total	-	Rs. 1,190.00

Flood Cess is applicable to different Tax rates as detailed below;

- (i). Goods Taxable at 3% - 0.25%

- (ii). Goods Taxable at 5% - Nil
- (iii). Goods Taxable at 12% - 1%
- (iv). Goods Taxable at 18% - 1%
- (v). Goods Taxable at 28 % - 1%
- (vi). All Services taxable at 5%, 12%, 18% & 28% - 1%

There is no Cess on local sales to registered dealers, interstate sales, sales of composition dealers and sale of goods taxable at 5%.

Source: Notification No. 31/2019-Central Tax, Kerala G.O.(P) No.96/2019/TAXES dated, 29/06/ 2019

VAT Amnesty scheme yet to achieve target

Kerala is yet to achieve the target of Rs.4,000 crore set by the Government through VAT amnesty scheme. As per the data available with the State GST department, the state has to receive Rs 13,542 crores from around 129,740 cases, which includes non-collectable assessed by revenue officials. So far only 14,558 Amnesty requests have been received, which amounts to Rs 148.60 crores as dues from which only 18.04 Crores was recovered by the state till end of June 2019. It is understand from this that the traders are not responding well; for instance in Ernakulam district, amnesty was requested for only 2764 cases from a total of 31,962 cases. In Trivandrum, amnesty was requested for only 852 cases out of 14,260 cases from which a total of Rs 1364 crores to be received. The tax officials need to put enough pressure so that the amnesty target can be achieved by the State.

Source: Evaluation Meeting of State GST department held at GIFT on 03/07/2019

STATUTORY CHANGES

GST on contribution charged by RWA

The Central Board of Indirect Taxes and Customs (CBIC) clarified that GST is payable on the entire amount if the maintenance charges collected by a Residential Welfare Association (RWA) exceeded Rs.7500 per month per member. For example, if the maintenance charges are Rs. 9000 per month per member, GST at the rate of 18 per cent shall be payable on the entire amount of Rs. 9000. Prior to 25/01/2018, the exemption was available if the contribution did not exceed Rs.5000 per month per member. The limit was increased to Rs.7500 per month per member with effect from the above date. If the aggregate turnover of an RWA does not exceed Rs. 20 lakh in a financial year, it shall not be required to register and pay GST even if the amount of maintenance charges exceeds Rs.7500 per month per member.

Source: Circular No. 109/28/2019, dated 22/07/ 2019

CBIC issues clarification on supply of ITeS

The CBIC has issued clarifications on doubts related to supply of Information Technology enabled Services (ITeS). As per its circular, the definition of intermediary inter alia provides specific exclusion of a person, i.e., that of a person who supplies such goods or services or both or securities on his own account. Therefore, the supplier of services would not be treated as intermediary 'even where the supplier of services qualifies to be an agent/broker or any other person' if he is involved in the supply of services on his own account. The circular also illustrated various scenarios when a supplier of ITeS located in India supplies services for and on behalf of a client located abroad.

Source: Circular 107/2019 dated 18/07/2019

No GST invoice required if goods taken abroad for exhibition

The CBIC clarified that the activity of sending the goods

out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as 'Zero-rated supply' as per section 16 of the IGST Act. The specified goods sent/taken out of India are required to be either sold or brought back within the stipulated period of six months from the date of removal as per the provisions contained in sub-section (7) of section 31 of the CGST Act.

Source: Circular 108/2019 dated 18/07/2019

■ **CBIC extends last date to furnish CMP-08 to 31 August 2019**

The CBIC has notified the extension for filing returns by the composition dealers in FORM GST CMP-08. It provided that the due date for furnishing the statement containing the details of payment of self-assessed tax in CMP-08 for the quarter April 2019 to June 2019, or part thereof, shall be the 31st day of August 2019. The composition taxpayers 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 CMP-08 of the CGST Rules, 2017, till the 18th day of the month succeeding such quarter.

Source: Notification No. 34/2019-CT dated 18/07/2019 & 35/2019-CT dated 29/07/2019

■ **Recent changes in the CGST Rules, 2017**

The CGST Rules 2017 have been amended as follows: (i) The GST registration rules are now amended to include reference to TDS deduction provision Section 52 of CGST Act; (ii) E-ticketing introduced for exhibition of cinematograph films in multiplex screens; (iii) A new rule for surrender of enrolment of GST practitioner; (iv) A new rule is introduced for application for unblocking of the facility for generation of e-way bill and order thereof; and (v) The declaration statement in statement 5B while applying for GST refund for deemed exports has been changed.

Source: Notification No. 33/2019-CT dated 18/07/2019

GST COUNCIL

■ **Constitution of CoO on risk-based management of taxpayer**

The GST Council has constituted a Committee of Officers (CoO) on risk-based management of taxpayers under GST regime. The ten-member CoO shall work under the co-convenors Shri P.D Vaghela, Chief Commissioner of State Tax, Gujarat and Shri Upender Gupta, Pr. Commissioner, GST Policy wing, CBIC. The Committee will study, examine and suggest: (i) The modalities of KYC verification of a taxpayer through various agencies, parameters for risk-based profiling of a taxpayer so as to identify 'risky' entity in an automated manner; (ii) The modalities for assessing financial credibility of a taxpayer vis-à-vis his/her GST profile and also suggest various threshold limits for such target taxpayers; (iii) Reasonable restrictions to be imposed on taxpayer based on risk parameters to regulate issue of invoice, utilisation of ITC, passing of ITC, refunds etc.; (iv) Changes required, if any, in the GST Law and Rules to enable profiling and regulating risky taxpayer, including invocation of penal provisions in case of failure to undertake the desired verification/compliances for KYC; and (v) Measures for

implementation of suggested risk-based management on immediate basis and any other measures, mechanism and machinery to check and curb multiple types of frauds. The CoO may seek assistance of officers from Centre and States, if required, and submit its report within a period of one month.

Source: GST Council, Office Memorandum dated 15/07/2019

■ **Constitution of GoM to monitor and resolve IT challenges**

The GST Council has partially modified the Group of Ministers (GoM) constituted on 14 September 2017 to monitor and resolve the IT challenges faced following the implementation of GST. The GoM will work under the chairmanship of Shri Sushil Kumar Modi, Deputy Chief Minister of Bihar. Shri Sudhir Mungantiwar, Finance Minister of Maharashtra, Shri Bandedra Kashempur, Co-operation Minister of Karnataka, Dr. Himanta Biswa Sarma, Government of Assam, Capt. Abhimanyu, Excise & Taxation Minister of Haryana and Shri Buggana Rajendrnath Reddy, Finance Minister of Andhra Pradesh, are the other members of the GoM. Shri Prakash Kumar, CEO of GSTN, will assist the GoM in its work.

Source: GST Council, Office Memorandum dated 12/07/2019

■ **Constitution of CoO for a Special Composition Scheme**

In pursuance of decision taken in the 35th GST Council meeting, the Council has constituted a CoO to examine the feasibility of designing a special Composition Scheme for Brick Kilns, Menthol, Sand Mining activities and stone crusher units. The CoO will have senior officers from CBIC, Department of Revenue, National Academy of Customs, Indirect Taxes & Narcotics (NACIN) and GST Council Secretariat. The taxes commissioners of Bihar, Haryana, Odisha, Uttara Khand, and Uttar Pradesh are also part of the Committee. The Committee can co-opt any other officer, if required. It shall submit its report within 30 days from the date of its constitution for placing its recommendations before the Council.

Source: GST Council, Office Memorandum dated 12/07/2019

PARLIAMENT

■ **GST collection of States and UTs rises to Rs. 5.18 trillion in 2018-19**

Total GST collection of States and Union Territories (UTs) increased to Rs. 5.18 trillion in the financial year 2018--19, up from Rs. 2.91 trillion collected in nine months of 2017--18. Besides, the Centre has released Rs. 81,177 crore compensation to States during 2018-19, as against Rs. 48,178 crore during 2017--18 fiscal (July--March). The GST collection of the States/UTs has been showing steady improvement over the period of time. In addition, they are also assured a growth of 14 per cent for a period of five years through payment of compensation by the central government.

Source: Lok Sabha, Starred Question No. 319, 15/07/2019

■ **Parliament passes amendments carried out in the Finance Bill, 2019**

The Parliament passed the Finance (No. 2) Bill, 2019 on 23 July 2019 to ratify the amendments made in five major categories, including the GST. Smt. Nirmala Sitharaman, Union Finance Minister, stated that since

the amendments to the indirect tax laws have been cleared by the GST Council, they would have to come through Parliament too. The GST Act has five different amendments, through this Finance Bill, to increase ease of compliance for the MSMEs as well as promoting digital payments and improving compliance.

Amendments in the CGST Act, 2017

Clause	Amendment
91	Section 2(4): 'Adjudicating Authority' amended to exclude 'the National Appellate Authority for Advance Ruling'.
92	Section 10: Amendment to introduce composition scheme for service providers (Up to Rs. 50 lakh).
93	Section 22: Increase in threshold limit for registration in respect of goods to Rs. 40 lakh.
94	Section 25: Aadhaar authentication for new and existing registrants.
95	Section 31A: Specified suppliers to mandatorily give the option of electronic payment to the recipients of supply of goods or services or both made by them.
96	Section 39: Provide for new return system and allow composition taxpayers to furnish annual return along with quarterly payment.
97	Section 44: Empowers the "Commissioner or Joint Secretary posted in the Board" to extend the due date furnishing Annual Return prescribed (FORM GSTR9/9A) and reconciliation statement (FORM GSTR-9C).
98	Section 49: Provide for transfer of an amount from one head to another head in the electronic cash ledger. Such transfer shall be deemed to be a refund from the electronic cash ledger under this Act. Any amount that has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger.
99	Section 50: Charging interest only on the net cash tax liability, except in proceedings under section 73 or 74. Interest on late payment of tax shall be calculated on net cash liability (gross liability less credit available), and not gross tax liability.

- 100 **Section 52(4&5):** Empowers the "Commissioner or Joint Secretary posted in the Board" to extend due date of monthly/annual statement of TCS.
- 101 **Section 53A:** Provides for consequential transfer of amount between Centre and States, due to section 49 (Transfer of an amount from one head to another head in the electronic cash ledger).
- 102 **Section 54(8A):** Provides that the Central Government may disburse refund amount to taxpayers in respect of refund of State taxes, i.e., disbursement of refund by single authority.
- 103 **Section 95(f):** To define the "National Appellate Authority (NAA)" for Advance Ruling.
- 104 **Section 101A, B & C:** To introduce provisions relating to 'National Appellate Authority (NAA) for Advance Ruling'.
- 105 **Section 102:** Power to National Appellate Authority (NAA) to rectify any error apparent on the face of the record.
- 106 **Section 103:** Advance Ruling (AR) pronounced by the National Appellate Authority (NAA) shall be binding PAN wise.
- 107 **Section 104:** Advance Ruling (AR) pronounced by the National Appellate Authority (NAA) to be void in certain cases.
- 108 **Section 105:** The National Appellate Authority (NAA) to have powers of Civil Court under the Code of Civil Procedure, 1908.
- 109 **Section 106:** The National Appellate Authority (NAA) to regulate its own procedure.
- 110 **Section 168:** The Commissioner or Joint Secretary shall exercise the powers specified in respect of section 44(1) and section 52(4&5).
- 111 **Section 171:** To empower National Anti-profiteering Authority to impose penalty equivalent to 10 per cent of the profiteered amount. However, no penalty shall be levied if the profiteered amount is deposited within 30 days of the date of passing of the order by the Authority.

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 Printed & Published by : **Shri Kiran Lal P.S**, Registrar, GIFT
 Date of Publication : August 3, 2019

We would like to thank Dr. D. Narayana, Dr. N. Ramalingam, Dr. Thomas Joseph, and Smt. L. Anitha Kumary and Shri S.Suresh for their valuable inputs to this newsletter. We also acknowledge data analysts and typesetting services rendered by Smt. Sheeja N, and Smt. B.L Vrintha.

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