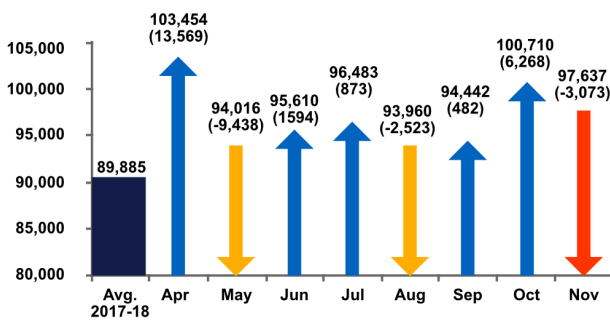


GOODS AND SERVICES TAX

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

November 2018
Vol. 1, Issue 4

Consistently inconsistent, GST collection dropped to Rs 97,637 Cr. in November, 2018



Note: Rs. in Crore

The Government is unable to maintain consistency in GST collection over Rs.1 lakh crore every month. In November this dropped to Rs 97,637 crore, out of this CGST collection is Rs 16,812 crore, SGST is Rs 23,070 crore and IGST is Rs 49,726 crore which also includes Rs 24,133 crore collected on imports. Rs 8,031 crore is collected as Cess including Rs 842 crore collected on imports. The total revenue earned by the Central Government and State Governments after regular settlement is Rs 35,073 crore for CGST and Rs 38,774 crore for SGST.

Source: Compiled from different sources

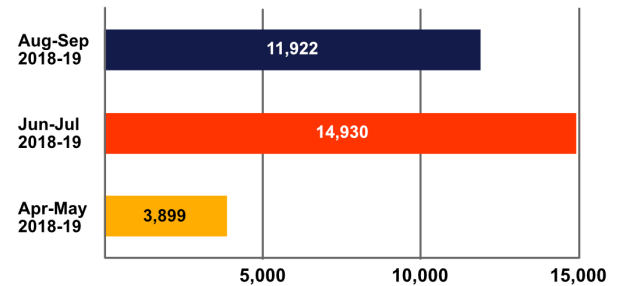
Dr. Ajay Bhushan Pandey takes over as Revenue Secretary

Dr. Ajay Bhushan Pandey, a 1984 batch Maharashtra cadre IAS officer took over as the Revenue Secretary, upon superannuation of Dr Hasmukh Adhia on 30/11/2018. Dr. Pandey will continue to head the Unique Identification Authority of India (UIDAI) as its CEO and will also hold his position as the Chairman of GSTN. He said, that as the Revenue Secretary, his priority would be to increase tax compliance, stabilise the implementation of GST, bring transparency and simplification of laws and procedures for better tax administration and ease of business.

Source: PIB 30/11/2018

Compensation paid to states declines to Rs 11,922 crore in Aug-Sept, 2018

GST compensation paid to states by the Centre has declined to over Rs 11,922 crore during August-September, 2018. The bi-monthly GST compensation paid during the June-July



Note: Rs. In Crore

period was Rs 14,930 crore, nearly four-fold jump from Rs 3,899 crore paid in April and May. The states faced an average 16 per cent shortfall in GST mop-up in 2017- 18, which has come down to 13 per cent during April-August of the current fiscal.

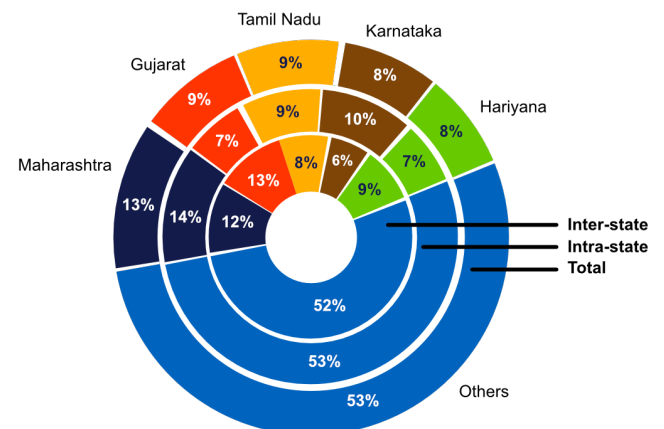
Source: Ministry of Finance

Centre and States apportion Rs 33,000 crore IGST in November 2018

As much as Rs 33,000 crore lying in the IGST pool has been apportioned between the centre and states in November, 2018. This is the sixth time IGST funds have been divided between the Centre and the States. As much as Rs 32,000 crore was settled in October, Rs 29,000 crore was settled in September, Rs 12,000 crore in August, Rs 50,000 crore in June and Rs 35,000 crore in February this year.

Source: PTI, 30/11/2018

Total 2.93 crore e-way bills generated in November 2018: Maharashtra at the top



According to GSTN, a total of 2,93,33,509 e-way bills were generated in November 2018 out of which the state of Maharashtra ranks top holding 13 percent share of the total. Among other states, Gujarat's share is almost 9 percent, Tamil Nadu's share is also 9 percent, Karnataka and Haryana hold almost 8 percent each in November 2018.

Source: GSTN, as on 20/11/2018

Govt. extends GST return due dates in TN

The GST Council has extended the due dates of filing of GST returns in the State of Tamil Nadu after the State is suffering from the loss due to the cyclon, 'Gaja'. Earlier, the State Government had asked the GST Council 30 days' time for filing GST forms, including GSTR3B and GSTR 1. Besides, the State Government had also sought exemption of late fee of Rs. 200 per day and penal interest on it. If the GST Council accepts this request, the assesseees can file their forms without late fee and interest by December 20, 2018.

Source: PTI, 28/11/2018

Service tax evasion of Rs. 29,973 crore detected this year so far

The Ministry of Finance has detected a total indirect tax evasion worth Rs 29,088 crore from 1,835 cases during April-October, 2018. Of this, the Directorate General of GST Intelligence (DGGI) has detected evasion of GST worth Rs 4,562 crore in 571 cases. However, the bulk of the evasion was detected in case of service tax. The total number of cases where service tax was evaded stood at 1,145 involving Rs 22,973 crore. In case of central excise duty, the DGGI detected 119 cases where tax evaded was worth Rs 1,553 crore.

Source: PTI, 21/11/2018

E-way bill may be linked with FASTag to check GST evasion

The Government is planning to integrate e-way bill with the National Highways Authority of India's (NHAI) FASTag mechanism and Delhi-Mumbai industrial corridor's logistics data bank services, to facilitate faster movement of goods and check GST evasion. Currently, lack of harmonisation under the 'track and trace' mechanism in terms of sharing information among different agencies is affecting the ease of doing business in the country. The proposal will improve operational efficiencies across the country's logistic landscape.

Source: PTI, 19/11/2018

NAA finds Hardcastle Restaurants guilty of profiteering Rs 7.49 crore

The National Anti-profiteering Authority (NAA) has found Hardcastle Restaurants, a franchisee of fast food chain McDonald's, guilty of not passing on GST rate cut benefits of over Rs 7.49 crore to consumers. Complaints were filed against the restaurant accusing it of keeping the prices of the products same despite a reduction in the GST rate from 18 per cent to 5 per cent with effect from November 15, 2017.

Source: PTI, 20/11/2018

CAG conducting performance audit of GST, likely to be tabled in Winter Session

The Comptroller and Auditor General (CAG) is conducting performance audit of GST that is likely to be tabled in Parliament in the forthcoming Winter Session beginning 11 December, 2018. The audit would include registration, refund, input tax credit, transition credit mechanism, ease of payment of taxes and the impact on the economic activity etc. The GST audit will not take into account revenue collections. Its focus would primarily be on the implementation of new tax regime that has subsumed 17 local taxes.

Source: PTI, 18/11/2018

2 lakh assesseees who migrated from VAT regime opt out of GST net

Over 2 lakh assesseees have opted out of the GST registration as their turnover is below the prescribed threshold. These are assesseees who migrated from the VAT (Value-Added Tax) regime to the GST regime. Turnover of these assesseees are below the threshold of Rs.20 lakh, which means there is no statutory compulsion to register with GSTN. This huge withdrawal will benefit both the taxpayers and the GSTN, the IT back-bone of the GST regime.

Source: BusinessLine, 14/11/2018

AG in favour of imposing a cess on sugar

The Attorney General (AG) has come out in favour of imposing a cess on sugar, over and above the GST. The Supreme Court upheld the Constitutional validity of the Act governing cess under GST. Accordingly, the AG has replied with a 'yes' to the reference on sugar cess. Based on it, a Group of Ministers (GoM), constituted by the GST council under the chairmanship of Shri Himanta Biswa Sarma, will formalise the proposal. But the final decision on it can be taken only by the GST Council.

Source: BusinessLine, 14/11/2018

GST a monumental reform, hit growth only during initial 2 quarters: Arun Jaitley

The GST implementation was a 'monumental reform' which had disruptionist impact on growth only for two quarters, Finance Minister Arun Jaitley said, hitting out at 'critics and cynics' who blame it for hurting the GDP expansion. The remarks come a day after former RBI Governor Raghuram Rajan blamed the indirect taxation reform for derailing India's growth story. The finance minister said after suffering for two quarters, growth increased to 7 per cent, then to 7.7 per cent and went up to 8.2 per cent last quarter and specifically pointed out that this is much higher than the 5-6 per cent expansion achieved during 2012-14.

Source: PTI,12/11/2018

Post GST, Pharmaceutical sector grew 6 percent till May, 2018

After the implementation of GST, the pharmaceutical sector grew by 6 per cent to Rs 1,31,312 crore on a year-on-year basis till May 31, 2018, Minister of State for Chemicals and Fertilisers Mansukh Mandaviya said. Before GST, annual turnover of the Pharma sector was Rs 1,14,231 crore (as on May 31, 2017). Impact of the GST on the Pharma sector has largely been positive and constructive.

Source: PTI, 15 /11/2018

NACIN postponed GST Practitioners exams to 17th December 2018

Due to assembly election in some states, the examination of GST Practitioners scheduled on 7th December, 2018 is postponed to 17th December, 2018.

Source: Press Release, 18/11/2018

DG Audit to scrutinise service firms' accounting software

In order to prevent incorrect allocation of GST revenue among states, the Directorate General of Audit has been asked to scrutinise the accounting software of large service providers like banks and telecom companies. Some states have expressed apprehension that service providers might not be depositing the taxes collected from customers to the state exchequer where they are rightfully due. Instead, they are depositing in some other states where they are not due as per the GST rules and regulations of Place of Supply.

Source: PTI, 04/11/2018

STATUTORY CHANGES

Govt. extends due date for filing GSTR-7 for October-December, 2018 till January, 2019

The Government has extended the due date for filing of Form GSTR-7 for the months of October 2018 to December 2018 till January 31st, 2019. GSTR-7 is a monthly return to be filed by the persons required to deduct TDS under the GST. According to the CGST Act, the notified entities are required to collect TDS at one percent on payments to goods or services suppliers in excess of Rs 2.5 lakh. Also, states levy one percent TDS under state laws.

Source: Notification No.66/2018-CT, 29/11/2018

Govt. issues advisory to Diplomatic Missions on GST Refunds

In a clarification for consulates, embassies and diplomatic locations based in India, the Government advised them to maintain consistency in reporting 'place of supply' in invoices and goods and services tax (GST) returns filed by them to claim refunds under the indirect tax regime. The GST Act provides for allotting a Unique Identification Number (UIN) to Consulates, Embassies and other UN Organizations to enable such entities to claim refund of GST paid. One of the conditions for claiming this refund is to file invoice level data in their FORM GSTR-11 on the common portal.

Source: PIB, 09 /11/2018

Clarification issued for re-import through Posts

The circular clarifies that the two notifications (No. 45/2017-Customs and 46/2017-Customs dated 30.06.2017) are also applicable to re-import of goods which were earlier exported through posts.

Source: Circular No. 45/2018-Customs, dated 19/11/2018

Govt. appoints DGGST as nodal agency to run the FAR for MSMEs

The Government has decided that all grievances raised by MSMEs have to be recorded and processed promptly. In order to achieve the same, a Feedback and Action Room (FAR) is required to be set-up. It has also been decided that Directorate General of Goods and Service Tax (DGGST) would be the nodal agency to run the said FAR. Hence, it is requested to set-up FAR in the office of DGGST. Officers for the same may be nominated from the Delhi & NCR. It is also requested that the FAR should remain open till the nodal offices remain open in the concerned districts.

Source: F.No.349/94/2017-GST (Pt) dated 01/11/2018

Tea Board is E-Commerce platform liable to TCS: Govt. clarifies

The Government has clarified that the Tea Board under Ministry of Commerce and Industry, being the operator of the electronic auction system for trading of tea across the country including for collection and settlement of payments, falls under the category of electronic commerce operator liable to collect Tax at Source (TCS). The participants in their auctions are the sellers i.e. the tea producers and auctioneers who carry out the auction on behalf of such sellers and buyers.

Source: Circular No. 74/48/2018-GST, 05/11/2018

Del-Credere Agent falls under ambit of agent in invoice for supply issued in his own name

The CBIC has clarified the Del-Credere Agent (DCA) would fall under ambit of agent if invoice for supply of goods is issued by the DCA in his own name. But if the invoice for supply of goods is issued by the supplier to the customer either himself or through DCA, then the DCA does not fall under

the ambit of agent.

Source: Circular No. 73/47/2018 – GST, 5/11/2018

TDS Provisions not applicable on supply of goods or services to a PSU by another PSU

The TDS provision under sec. 51 of the CGST Act, 2017 is not applicable on supply of goods or services to a Public Sector Undertaking (PSU) by another PSU, whether or not a distinct person.

Notification No. 61/2018/CT, dated. 05/11/2018

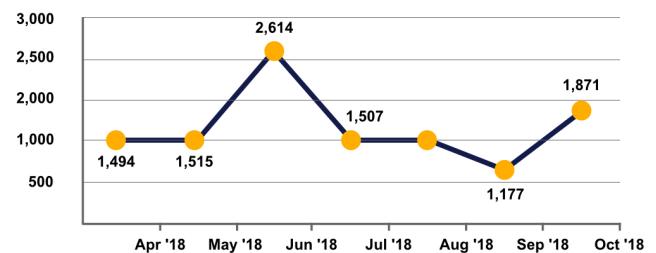
Haryana Govt. issues guidelines regarding circumstances in which ITC has to be blocked

The Haryana Govt. has issued guidelines regarding circumstances in which ITC has to be blocked from electronic credit ledger. The full amount of credit available in e-credit ledger would be blocked instantly in cases where the registered taxpayers are found to be bogus as a result of any investigation or intelligence or firms found to be non-functional.

Source: Memo No. 3555/GST-2, dated 30/10/2018

KERALA STATE GST

GST collection: Kerala record 44 per cent growth in October, 2018



Kerala's GST revenue during October hit Rs 1871 crore as against Rs 1177 crore during September owing to various reasons including efforts to curb leakage of revenue by posting officials at the borders to check e-way bills. This collection was almost 44 per cent higher than the revenue posted during the previous month. The growth of GST so far has been 8.75 per cent and is hopeful that proper implementation of the system could bring in full benefits of the new tax regime.

Source: Kerala GST department

Newly recruited STO's: First batch successfully completed training at GIFT

The first batch of newly recruited Sales Tax Officers (STOs) has successfully completed their training at Gulati Institute of Finance and Taxation (GIFT), Thiruvananthapuram. Dr. T.M Thomas Isaac, Hon'ble Finance Minister declared the successful completion in a function organized at GIFT on 22 November 2018. For the past one year, 60 trainee officers underwent various training modules that included theory and practical aspects of GST. Dr. Rajan N. Khobragade IAS, Dr. D. Narayana, and Shri Tyagaraja Babu, were present in the declaration ceremony.

NEW FUNCTIONALITY ON GST PORTAL

- The Goods and Services Tax Network (GSTN) has enabled the option of 'Annual Return Tab' on GST portal for filing GST annual return.

■ CBIC has implemented six improvements in e-way bill generation with effect from 16.11.2018 which includes Checking of duplicate generation of e-way bills based on same invoice number, CKD/SKD/Lots for movement of Export/Import consignment, Shipping address in case of export supply type, Dispatching address in case of import supply type, 'Bill To - Ship To' transactions and Changes in Bulk e-way bill Generation Tool.

ADVANCE RULINGS

■ **18% GST applicable to whole wheat Malabar Parota: AAR-Kerala**

M/s. Modern Food Enterprises Pvt. Ltd., In re (2018)

■ **Rent to Kerala Govt. on leased land for coffee plantation exempt from GST: AAR Kerala**

Cochin Plantations Ltd., In re (2018)

■ **Supply of food to other offices in SEZ is not Zero rated supply: AAAR, Maharashtra**

Merit Hospitality Services Pvt. Ltd., In re (2018)

■ **Pure food item supplied by sweetshop-cum restaurant treated as supply of services: AAR, Uttarakhand**

M/s Kundan Misthan Bhandar, In re (2018)

■ **Contract of job works activity of custom milling of paddy, transportation of rice and usage charges of gunny bags taxable at 5 % as 'Composite Supply': AAR, Chattisgarh**

M/s Taranjeet Singh Tuteja & Brothers, In re (2018)

■ **GST leviable on Long Term Lease: AAR - Goa**

M/s Goa Tourism Development Corporation Ltd., In re (2018)

■ **Penal Interest on loans or EMI delays/defaults will attract GST: AAR- Maharashtra**

Bajaj Finance Limited, In re (2018)

■ **GST applicable on sale and purchase of DFIA licenses: AAR-Maharashtra**

Spiceage Syntex Pvt. Ltd., In re (2018)

■ **Reimbursement of toll charges not excluded from value of supply; attract GST: AAR-West Bengal**

Premier Vigilance & Security Pvt. Ltd., In re (2018)

■ **Back office services to foreign customer would attract 18 per cent GST: AAR-AP**

M/s Synthite Industries Limited, In re (2018)

■ **Amortised cost of tools re-supplied to supplier free of cost shall be added to value of components: AAR- Karnataka**

Nash Industries (I) Pvt. Ltd., In re (2018)

■ **Construction of Foundations and sheds to be treated as Civil Structures, ITC not allowed: AAR- AP**

Maruti Ispat & Energy (P.) Ltd., In re (2018)

■ **ITC of GST paid on goods purchased for purpose of maintenance of Mall, shall not be admissible to owner of Mall, in terms of section 17 (5) of CGST Act: AAP-MP**

Jabalpur Entertainment Complexes Pvt. Ltd., In re (2018)

■ **Disc brake pads classifiable as breaks and their parts, attract 28% GST: AAR-Tamil Nadu**

Brakes India Pvt. Ltd., In re (2018)

■ **Product 'cattle feed in cake form' classifiable as compounded animal feed; exempted from GST: AAR-Tamil Nadu**

C.P.R Mill, In re (2018)

■ **Services of supplying food and beverages in office premises taxable at 5% GST after 26/07/2018: AAR-Tamil Nadu**

Goodwill Industrial Canteen, In re (2018)

■ **Concessional 12% GST rate would be applicable on sale of flats under Affordable Housing Project: AAR-Maharashtra**

Ideal construction, In re (2018)

■ **EPC contract work for solar power plant involving photovoltaic module not treated as composite supply: AAR-Karnataka**

Giriraj Renewable (P) Ltd., In re (2018)

■ **Animal carcass in LDPE / HDPE bags without mentioning weight/ number, not 'unit container' supply: AAAR-Maharashtra**

Ahmedabad District goat Rearing & Processing Co-op. Federation Ltd., In re (2018)

■ **Polypropylene Leno bags made from woven PP fabric are classified as sacks and bags: AAR-West Bengal**

SMVD Polypack Pvt. Ltd., In re (2018)

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