Tax Talk 74

A Monthly Goods & Services Tax Bulletin

Vol : 6 | Issue No. 2 | May 2018 | Rs. 5/-

Editorial...

GST collection in the month of April crossed Rs.1.03 trillion, which is a landmark achievement and reflects the upswing in the economy and better compliance. The spike in GST revenue may also be linked to the roll out of e-way bill which was considered as a major anti-evasion measure. It can be expected that in the upcoming meeting of the GST Council, consensus would be built on simplification of GST Return forms, government is now thinking to continue with single return per month/quarter. It will be a challenge before the draftsman to draft single form which will take care of the requirements of GSTR-1, GSTR-1A, GSTR-2, GSTR-2A and GSTR-3. A further increase in the revenue collection is expected once invoice matching will start.

Authority of Advance Ruling (AAR) is a mechanism under law to provide certainty and transparency to a taxpayer with respect to an issue which might cause a dispute with the tax administration. The Authorities of Advance Ruling has come up with important judgments, from taxing products sold at duty-free shops to taxing of canteen services. Few rulings are not acceptable to tax payers, however they are unable to appeal against these verdicts as Appellate Bodies for this purpose are yet to be set up, which is causing extreme hardship.

During the month of April, number of clarifications has been issued by government. IT Grievance Redressal Committee would be set up to handle problem faced by the taxpayers due to glitches on GST portal which is definitely a welcome step by government. We hope this committee will be able to provide requisite relief which taxpayers were expecting since inception of GST. We have compiled all these on Page-2.

E-way bill has been made mandatory for inter-state movement of goods from 1st April, 2018. E-way bill gradually came into implementation for intra-state movement from 1st April, 2018 with the state of Karnataka being the first one to make it operational. After that 17 other states also implemented the same, list is given on Page-3.

The government has simplified the entire process of e-way bill system. This time government made huge arrangements to handle any situation or problems being faced by users. The Central helpdesk of GST has made special arrangements with 100 agents exclusively dedicated to answer queries related to e-way bills. State tax authorities have also started helpdesk in local language.

Detailed FAQs are kept on the portal for the guidance of the users. The government has also issued circular clarifying the procedure for interception of vehicles carrying goods for inspection of goods in movement, detention, release and confiscation of such goods and vehicles which has been discussed on Page-3 of this issue.

One must take care of recording of UIN on the invoice, if they are making supply to Foreign Diplomatic Missions / UN Organizations, as it is a necessary condition and not mentioning the same in invoice may attract punitive action.

We hope this newsletter will add some value and prove to be beneficial to the readers. We highly solicit suggestion/opinions of the readers. Please feel free to convey your views at gst@goyalstax.com. You may refer all earlier issues of Tax Talk at www.gstpeople.com.

CA Sushil Kr Goyal

DUE DATES			
Particulars	**Return**	**For the Month**	**Due date**
Regular Taxpayers (annual turnover > Rs 1.5 crore)	GSTR-1	Mar 2018	10th May 2018
Regular Taxpayers	GSTR-3B	Apr 2018	20th May 2018
Regular Taxpayers (annual turnover > Rs 1.5 crore)	GSTR-1	Apr 2018	31st May 2018
Input Service Distributor	GSTR-6	Jul 2017-Apr 2018	31st May 2018

GLITCHES ON GST PORTAL

A New IT Grievance Redressal Mechanism would be set up for addressing the difficulties faced due to technical glitches on the GST Portal by a section of taxpayer and relief for the same would be announced. If a taxpayer has failed to file a return within the time limit due to IT related glitch, the IT Grievance Redressal Committee will approve and recommend the procedure for implementation of the steps to address the grievance provided that there is supporting evidence to prove that a genuine attempt was made to file the return. Nodal Officers will be appointed to whom the taxpayers shall make an application for glitch on the GST Portal for identified issues. If a taxpayer has failed to file a form or return due to IT related glitch affecting a large section of taxpayers, the fine and penalty would be waived. The taxpayers who tried but were unable to complete TRAN-1 procedure (original and revised) of filing them on or before 27th December, 2017 due to IT related glitch, were allowed to complete the process of filing of TRAN-1 by 30th April, 2018 and filing of GSTR-3B which could not be filed for such TRAN-1 by 31st May, 2018.

(Circular No. 39/13/2018-GST)

BOND/LUT BY EXPORTER

In number of cases, LUT filed by the exporter in GST Form RFD -11 on common portal are not visible to the jurisdictional officers of CBIC of few states. Accordingly, it has been clarified that the exporters who had filed and submitted FORM GST RFD-11 and acknowledgement for the same, bearing the Application Reference Number (ARN) has been generated, the same shall be deemed to be accepted. No other document needs to be physically submitted to the jurisdictional office for acceptance of LUT.

(Circular No. 40/14/2018-GST)

REFUND TO UIN AGENCIES

Issues has been clarified regarding statement of invoices while submitting the refund application. It is clarified that till the system generated FORM GSTR-11 does not have invoice level details, UIN agencies are requested to manually furnish a statement containing the details of all the invoices on which refund has been claimed, along with refund application. It is also clarified that the mentioning of UIN on the invoice is a necessary condition under rule 46 of the CGST Rules, 2017. If suppliers/ vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017. A one-time waiver is being given by the government for the quarters of July-September 2017, October - December 2017 and January – March 2018, subject to the condition that copies of such invoices will be submitted to the jurisdictional officers and will be attested by the authorized representative of the UIN agency.

(Circular No. 43/17/2018-GST)

RECOVERY OF DUES

CBIC has clarified regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit arising due to an assessment or adjudication proceedings instituted or any proceedings of appeal, review or reference either before, on or after the appointed date under the provisions of the existing law. It has been provided that if the same is not recovered under earlier law, would be recovered as an arrear under existing law.

Arrears of central excise duty, service tax or wrongly availed CENVAT credit carried forward as transitional credit shall be recovered as central tax liability to be paid through the utilization of amounts available in the electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01).

In case of arrears of interest, penalty and late fee in relation to CENVAT credit wrongly carried forward/ arrears of central excise duty, service tax or wrongly availed CENVAT credit shall be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in the electronic cash ledger of the registered person and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01).

(Circular No. 42/16/2018-GST)

CATERING SERVICE ON RAILWAY

It has been clarified that GST rate on supply of food and drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms (static units), will be 5% without input tax credit.

(Press release dated 6th April, 2018)

INVERTED DUTY - REFUND

The Central Government has substituted sub-rule (5) in Rule 89 of CGST Rules i.e, in case of refund on account of inverted duty structure, to include turnover of inverted rated supply of services for the calculation of maximum refund amount. Previously turnover of inverted rated supply of goods is only covered in the said rule i.e Rule 89 of CGST Rules.

(Notification No. 21/2018-Central Tax)

INCOME TAX RETURN AND GST

The Income tax department has notified Income Tax Return (ITR) forms for the Assessment Year 2018-19 (Financial Year 2017-18). To plug leakage of revenue of government and to provide more transparency, the ITR forms have been amended.

The new ITR forms seek a lot of information from taxpayers including the details of GST. Hence, the simplicity of the form has been somewhat diluted. The new ITR forms have new columns to report CGST, SGST, IGST and UTGST paid by, or refunded to, assessee during the Financial Year, hence the effort has been made to integrate for check.

E-WAY BILL- VERIFICATION

E-way bill is required to be generated where the consignment value exceeds Rs. 50,000. The person in charge of the conveyance carrying consignment of goods exceeding Rs. 50,000 is required to carry e-way bill as one of the prescribed documents.

CBIC has issued instructions regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement, detention, seizure, release and confiscation of such goods and conveyances.

The person in charge of the conveyance is liable to produce the documents and allow inspection of goods where such conveyance is intercepted by proper officer at any place. The e-way bill shall also be verified by the officer. Physical copy of e-way bill is not mandatory. E-way bill No. in the form of printout, sms or on the invoice is sufficient.

CBIC has issued various forms for the procedure for detention, seizure and release of goods and conveyance which are as follows:

Forms	Particulars	Conditions/Remarks
GST MOV-01	Statement of the person in charge of the conveyance	When the person in charge fails to produce documents or officer intends to undertake inspection
GST MOV-02	Order for physical verification/inspection of the conveyance, goods and documents	Within 24 hours of issuance of GST MOV-02 concerned officer has to prepare a report in part A of GST EWB-03 and upload on common portal
GST MOV-03	Order of extention of time for inspection beyond three working days	Written permission from the commissioner has to be obtained for extention of time
GST MOV-04	Physical verification report	GST MOV-04 needs to be issued within 3 days of issuance of GST-02. Officer also has to complete Part B of GST EWB-03 on the portal
GST MOV-05	Release order in case if no discrepancy observed	Conveyance shall be allowed to move further
GST MOV-06	Detention order in case if discrepancy is observed	MOV-06 for detention order
GST MOV-07	Notice specifying tax and penalty payable	MOV-07 for notice
GST MOV-08	Bond for provisional release of goods and conveyance	A security in the form of bank guarantee will also be obtained for amount payable
GST MOV-09	Order of demand of tax and penalty	Goods to be released if payment is made by the owner
GST MOV-10	Notice to the owner of goods for tax, penalty and fine in lieu of confiscation	
GST MOV-11	Order of confiscation of goods and conveyance and demand of tax, fine and penalty	Time not exceeding three months shall be offered to make the payment
GST DRC-07	Summary of order in form GST MOV-09 and GST MOV-11	

(Circular No.41/15/2018-GST)

E-WAY BILL- INTRA STATE

Implementation Date	States
1st April, 2018	Karnataka
15th April, 2018	Andhra Pradesh, Gujarat, Kerala, Telengana, Uttar Pradesh
20th April, 2018	Bihar, Haryana, Himachal Pradesh, Jharkhand, Tripura, Uttarakhand
25th April, 2018	Arunachal Pradesh, Madhya Pradesh, Meghalaya, Puducherry, Sikkim
1st May, 2018	Nagaland

E-WAY BILL-BILL TO SHIP TO MODEL

Bill to Ship to model is quite popular and is frequently used in trade and industry as an integral part of Supply Chain Management. A lot of practical challenges and implementation issues were faced for preparation of two e-way bill for two set of transactions under Bill to Ship to model. In the 26th GST Council Meeting government had resolved this issue explaining that only one e-way bill is required to be prepared capturing place of dispatch in Part-A of e-way bill. Thereafter, amendment in e-way bill forms was also made vide Notification No. 12/2018 dated 7th March, 2018. For further clarifications, CBIC has issued a press release on 23rd April, 2018 with example.

In a Bill to Ship to model transaction, 3 parties are involved say ‘A’, ‘B’ and ‘C’. ‘A’ is the person who has ordered ‘B’ to send the goods directly to ‘C’ on his behalf. ‘C’ is the recipient of goods. In this case, two tax invoices are required to be issued. One invoice will be issued by ‘B’ to ‘A’ and the other will be issued by ‘A’ to ‘C’. It is clarified that either ‘A’ or ‘B’ can generate the e-way bill. The procedure for the same is given below:

Where e-way bill is generated, the following fields shall be filled in Part A of GST FORM EWB-01:

		When e-way bill is generated by ‘B’	When e-way bill is generated by ‘A’
1.	Bill From:	In this field details of ‘B’ are supposed to be filled.	In this field details of ‘A’ are supposed to be filled.
2.	Dispatch From:	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of ‘B’.	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of ‘B’.
3.	Bill To:	In this field details of ‘A’ are supposed to be filled.	In this field details of ‘C’ are supposed to be filled.
4.	Ship to:	In this field address of ‘C’ is supposed to be filled.	In this field address of ‘C’ is supposed to be filled.
5.	Invoice Details:	Details of invoice issued by ‘B’ to ‘A’ are supposed to be filled.	Details of invoice issued by ‘A’ to ‘C’ are supposed to be filled.

(Press release dated 23rd April, 2018)

BOOK POST

Published from :

Tax Talk

Stephen House
Room No. 64, 4th Floor
4, B.B.D. Bag (East) Kolkata - 700 001

Owner: M/s. Goyal Tax Services Pvt. Ltd., Printer & Publisher: Mrs. Reena Goyal Published from Stephen House, Room No. 64, 4 B. B. D. Bag (East), 4th Floor, Kolkata-700 001 and Printed from M/s. CDC Printers Pvt. Ltd., Tangra Industrial Estate-II (Bengal Pottery), 45, Radhanath Chowdhury Road, Kolkata - 700 015. Editor: **CA Sushil Kumar Goyal.**

Registration under RNI No. WBENG/2013/55099 Postal Registration No. KOL RMS/465/2018-2020 Date of Publication : 1st May 2018