Tax Talk

GST GST

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Editorial...

Happy Durga Puja and Vijaya Dashami to all our valued readers..!! We all look forward to this festive season of joyousness and merriment during which all of us get rejuvenated by different means. The era of GST is full of changes and challenges and we should gear up to accept the challenges and ensure the proper compliance. The President gave his assent to the four GST Amendment Bills passed by the Parliament which will become effective through notifications.

The 30th GST Council Meeting was held on 28th September, 2018 to consider imposition of cess to help flood ravaged Kerala. Kerala welcomed the proposal of the Council to impose cess on State Tax in the state for rehabilitation of the flood affected areas. The Council also reviewed the revenue trend and stated that GST collection has been more than expected from the north-eastern states. There was no concrete decision taken in this council meeting and it is expected that decisions will be made in the next meeting.

The Government has notified the format for filing annual return for both regular taxpayers (GSTR-9) and composition dealers (GSTR-9A) along with the audit report form and reconciliation statement (GSTR-9C). The annual return is supposed to be simpler and easier for taxpayers, but a closer scrutiny of the format shows there may be some areas of contention. The government are also likely to go through challenges with respect to technical part which should be anticipated and planned for.

While the deadline for filing the annual return is a few months away, there are few important compliances that needs to be planned. The GST provisions has a definite timeline for availing input tax credits and including tax adjustments via credit notes for the financial year. The timeline is the due date for filing GSTR-3B return for the month of September 2018, beyond this input tax credit will become time barred. Consequently, the taxpayers will be required to ascertain its entitlement and claim all the credits pertaining to FY 2017-18. Further, credit notes for supply made during the last financial year should also be issued, wherever required, for claiming deductions.

The Government brought good news for the taxpayers who were not able to file FORM GST TRAN-1 on time due to some technical difficulties by again extending the due date for filing of FORM GST TRAN-1 to 31st Jan, 2019. The Government has implemented the TDS and TCS provisions from 1st October, 2018. The provisions were kept in abeyance since the rollout of GST, to make it simpler for businesses. The Government has notified the rate of TCS to be collected by E-commerce operators @ 1%. The e-commerce companies and specific organisations would need to quickly gear up to comply with these provisions.

The Government has extended compliance due dates in certain cases which is a welcome step allowing the taxpayers to fulfil pending filing obligations. In order to encourage taxpayers to furnish Form GSTR-1, late fee payable for delayed furnishing of GSTR-1 for the period from July, 2017 to September, 2018 has been waived. The Board has issued various circulars which have been complied in page- 2 - 4 of this issue.

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	Period	Due date
Input Service Distributors	GSTR-6	Sept, 2018	13th Oct, 2018
Composite Dealers	GSTR-4	July-Sept, 2018	18st Oct, 2018
Regular Taxpayers	GSTR-3B	Sept, 2018	20th Oct, 2018
Regular Taxpayers (annual turnover < Rs 1.5 crore)	GSTR-1	July, 2017- Sept, 2018	31st Oct, 2018
Regular Taxpayers (annual turnover > Rs 1.5 crore)	GSTR-1	July, 2017- Sept, 2018	31st Oct, 2018
Newly Migrated Taxpayers	GSTR-1 (Quarterly)	July, 2017- Sept, 2018	31st Dec, 2018
	GSTR-1 (Monthly)	July, 2017- Nov, 2018	
	GSTR-3B	July, 2017- Nov, 2018	

GST UPDATES

Principal-Agent Relationship

The supply of goods by an agent on behalf of the principal without consideration is deemed supply as per Schedule I of the Central Goods and Services Tax Act, 2017. Clarifications were required regarding the scope of principal-agent relationship under GST.

There are two elements- supply of goods and supply of services. The supply of services between the principal and agent is outside the scope of Schedule I and would therefore require consideration to be considered as supply and thus be liable to GST. The second element supply or receipt of goods on behalf of principal is covered under Schedule I. The crucial aspect in determining the scope under GST will be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not. When the agent issues invoice for further supply in his name, the transaction would fall under the ambit of Schedule I entry. Also, when the goods procured by the agent on behalf of the principal are invoiced in the name of the agent, the same will be covered by Schedule I. However, if the invoice is issued by the agent to the customer in the name of the principal then such agent will not be covered by the entry in Schedule I. In a nutshell, it can be concluded that the main element for determining the scope of principal-agent relationship is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

(Circular No. 57/2018-GST)

Recovery of Arrears of Wrongly Availed Cenvat Credit

CBIC has clarified regarding the process of recovery of arrears of wrongly availed Cenvat Credit under the existing law and Cenvat credit wrongly carried forward as transitional credit in the GST regime. The Board had earlier clarified that recovery of arrears arising under the existing law shall be made as Central tax liability and should be paid by utilising the balance available in the electronic credit ledger or electronic cash ledger. The same shall be recorded in Part II of the electronic liability register (FORM GST PMT-01).

The functionality of recording the liability in the electronic liability register is not available on the GST portal and an alternative method has been prescribed. The taxpayers can reverse through Table 4(B)(2) of Form GSTR-3B. Interest and penalty which will be applicable on such reversal will be paid through entry in Table 6.1 of Form GSTR-3B.

(Circular No. 58/2018-GST)

E-way Bill

Storage of Goods: The textile sector of the country is facing a lot of difficulties in relation to storing their goods in the warehouse of the transporters. The weavers and artisans store their goods in the godown of the transporters and hence the transporters become liable to register themselves under GST. In order to resolve the difficulties of the textile sector and the transporters it is hereby clarified that where the consignee/ recipient taxpayer stores his goods in the godown of the transporter, in such a case the godown of the transporter has to be declared as an additional place of business by the recipient taxpayer.

E-way bill will only be required till the goods reach the transporter's godown in case where the godown has been declared as the additional place of business. There will be no requirement of extending the validity of e-way bill in such cases as the transportation under e-way bill will be concluded once the goods reach the transporter's godown. When the goods will be transported from the transporter's godown which is declared as additional place to any other place of business, a valid e-way bill will be required for the movement of the goods as per e-way bill rules.

The transporter will have to maintain accounts and records with respect to the period for which goods are kept in his warehouse including details of dispatch, movement, receipt and disposal of goods as a warehouse keeper. The taxpayer shall also maintain books of account for the additional place of business as per the CGST rules.

Interception of Vehicles: CBIC had prescribed the procedure for interception of conveyance for inspection of goods earlier. Various clarifications were required in relation to the penalty to be imposed where minor discrepancies were noticed in the details of e-way bill. It is hereby clarified that when a consignment is transported without e-way bill, the procedure of detention, release and confiscation shall apply.

Detention/seizure of vehicle may not be initiated in case of minor errors in the details of e-way bill such as-

i) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;

ii) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;

iii) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;

iv) Error in one or two digits of the document number mentioned in the e-way bill;

v) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;

vi) Error in one or two digits/characters of the vehicle number.

In case of any of the above errors, a maximum penalty of Rs. 1,000 (Rs. 500 under CGST and Rs. 500 under SGST or Rs. 1,000 under IGST) should be imposed for every consignment in FORM GST DRC-07.

(Circular No. 61/2018 & 64/2018-GST)

GST UPDATES

Refund

Clarification has been provided by the Board on various issues relating to refund. Earlier it was clarified that the invoices relating to inputs, input services and capital goods were to be submitted to the department for processing of refund claims of integrated tax for export of services with tax and invoices relating to inputs and input services were required to be submitted for refund of input tax credit when export of goods or services was made without payment of tax.

In order to reduce the compliance cost of the taxpayers and to ease the procedure of filing refund, it is being clarified that the refund claim application will be accompanied by FORM GSTR-2A of the period for which the claimant has filed refund. FORM GSTR-2A will be sufficient for the information of input tax credit availed by the taxpayer claiming refund. Invoices will only be required for the entries that are not present in GSTR-2A. The proper officer shall not demand for the original or duplicate invoices for the entries present in GSTR-2A. The taxpayer claiming refund shall submit an annexure containing details of invoices on the basis of which input tax credit has been availed for the relevant period along with FORM RFD-01A and Application Reference Number (ARN).

At present, the portal calculates the amount to be refunded in case of refund of unutilised input tax credit. After calculation, the electronic credit ledger of the claimant is debited by the refundable amount. Currently, the procedure of offsetting is not available on the portal. Hence, the taxpayers have to manually debit the balance of Integrated Tax (to the extent available) first and then Central Tax and State Tax equally. The refund application can be filed only after electronic credit ledger has been debited and ARN has been generated.

Where the refund amount is rejected due to eligibility of credit, the same shall be re-credited in electronic credit ledger in FORM GST RFD-01B and a demand notice will be issued for recovery of the amount along with the interest and penalty as applicable. If the demand is confirmed, the same shall be added to the electronic liability ledger in FORM GST DRC-07. The taxpayer may also pay the amount suo moto with interest and penalty before receiving the notice and the same shall be intimated to the officer in FORM GST DRC-03. Where the refund application is rejected on some other ground, an undertaking will be received from the claimant that no appeal will be filed against the order and the amount shall be re-credited to the electronic credit ledger.

It is further clarified that no refund of integrated tax paid on export of goods or services will be available to the registered persons including importers who are directly purchasing or importing supplies on which benefit of reduced tax or no tax incidence has been availed.

Once a sanction order has been passed for a refund by the proper officer, the tax authority cannot refuse to disburse the sanctioned amount. For any erroneous sanction of refund, the only remedy available to the department is to file an appeal after disbursing the amount.

As per CGST Rules, whenever any discrepancy is noticed in the refund application filed by the applicant, a deficiency memo is issued after which the claimant has to file the refund application afresh. It has been noticed that show cause notices are being issued to the claimant where fresh refund application is not filed post deficiency memo. It is clarified that there will be no requirement of show cause notice if deficiency memo has been issued.

Refund for Canteen Stores Department: Canteen Stores Department (CSD) is entitled to claim a refund of 50% of the tax paid on inward supplies received for the purpose of supplying such goods to Unit Run Canteens and authorised customers of CSD. The refund to be granted to the CSD is based on the invoices received by them for inward supplies and not on account of accumulated input tax credit.

CSD is required to file refund application manually in FORM GST RFD-10A on a quarterly basis till the online utility is not available on the common portal for them. The refund application will be accompanied with specified documents. After receiving the complete application of the refund, the proper officer shall issue an acknowledgement manually within 15 days. If any deficiency is noticed, a single deficiency memo will be issued in FORM GST RFD-03. The proper officer shall verify the details and ensure that only 50% of the amount paid as tax on inward supplies has been granted as refund.

(Circular No. 59/2018 & 60/2018-GST)

GST on Priority Sector Lending Certificate

CBIC has clarified that the tax liability on trading of Priority Sector Lending Certificate from 1st July, 2017 to 27th May, 2018 will be paid by the seller bank on forward charge basis @ 12%. From 28th May, 2018 onwards, where a registered person will supply PSLC to a registered person, the tax liability will be discharged by the recipient under Reverse Charge Mechanism. The rate of tax for the same will be 12%.

(Circular No. 62/2018-GST)

GST UPDATES

TAX DEDUCTED AT SOURCE

The government has implemented the provisions of Tax Deducted at Source (TDS) from 1st Oct, 2018. All the specified organisations had to register on the GST common portal and get the GST Identification Number (GSTIN). Every deductor is required to deduct the tax from the payment made to the supplier of goods or services or both and deposit the same with the government using challan on the common portal within 10th of the next month in FORM GSTR-7. Two options have been provided for payment of TDS under GST which are described as under:

Option I: Generation of challan for every payment made during the month. In this process, the deductor will have to deduct and deposit the GST TDS individually for each bill by generating a CPIN (Challan) separately and mentioning it in the bill. This procedure can be cumbersome for deductors who make large number of payments as it will require generation of large number of challans during the month.

Option II: Bunching of deductions and its deposit by the deductor. In this process, the deductors can bunch the TDS deducted from bills on weekly, monthly or any periodic manner. The deductor will have to keep the record of TDS deducted from each bill under Suspense head and deposit of the bunched amount under the suspense head can be made on weekly, monthly or any periodic manner.

(Circular No. 65/2018-GST)

AMENDMENTS IN CGST RULES

Cancellation of Registration: The proceedings for cancellation of registration due to non filing of returns shall be dropped without replying to the notice served, if the assessee furnishes all pending returns and pay tax dues along with interest and late fees.

Input tax credit Eligibility: Input Tax Credit can be availed if the invoice/debit note is issued in accordance with provisions containing all the specified particulars. But now it can be availed if invoice/debit note contains the details of at least the amount of tax charged, description of goods or services, total value of supply, GSTIN of the supplier and recipient, and place of supply in case of inter-State supply.

Refund of Integrated Tax Paid: Refund of Integrated Tax paid on export of goods is restricted if the exporter has imported goods without payment of IGST by availing benefits under customs duty, i.e. advance authorisation, EPCG, EOU/STPI etc, benefits with retrospective effect from 23rd October, 2017. Previously, such restrictions were applicable only if the supplier to the exporter had availed the aforementioned benefits on the supplies made to the exporter.

Documents and devices to be carried by a person-in-charge of a conveyance: In case of imported goods, the person in-charge of a conveyance will now need to carry a copy of the bill of entry filed by the importer and indicate the number and date of the bill of entry in Part A of Form GST EWB-01.

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