Tax Talk

A Monthly Goods & Services Tax Bulletin

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Editorial...

"Happy New Year 2019 !!" One more year loaded with sweet recollections, cheerful times and achievements has passed with your love, support and blessings. Wishing every day of the New Year to be filled with success, happiness and prosperity for you all. The New Year offers to look back into the achievements of the past year and invite the future with new hopes and dreams.

We are delighted to let you know that the ICAI elections have been successfully completed and results have been announced. I am thankful for the support and blessings of all the members. We would also like to convey our heartiest congratulations to the newly elected regional and central council members on the fabulous victory.

Getting back to the GST, it has been about one and half years since the Goods and Services Tax was introduced in July, 2017. The system has changed a lot in these 18 months and the changes have definitely helped in making it better. Also, it is set to change further in the New Year 2019. A constant endeavour under the GST has been to simplify the process, especially relating to filing returns and rationalisation of rates. The West Bengal State Government has introduced scheme for settlement of disputes which will benefit the businesses to settle all pre-GST disputes till June, 2017. The scheme has been discussed in details in Page-2 of this issue.

The 31st GST Council meeting, held on 22nd December, 2018 proposed various changes which brought relief to the taxpayers in the form of rate tweaks, simplification of FORM GSTR-9 & GSTR-9C and due date extension, streamline of GST compliances like return filing and refund process, legislative changes, E-way bill norms, etc. The meeting also paved the way for laying out a clear agenda before the next meeting, to be held in January, 2019. We started with a complex compliance framework, where we were required to submit three returns every month. Neither we nor the government was ready for this kind of system. For simplification of monthly compliances, the new return filing system shall be introduced on a trial basis from 1st April, 2019 and on mandatory basis from from 1st July, 2019.

The government had extended the due date for filing FORM GSTR-9, GSTR-9A and GSTR-9C till 31st March, 2019 and the GST Council has decided to further extend it for another three months which will give reasonable time to the taxpayers to appropriately file the returns. The requisite forms shall be made available on the GST common portal by 31.01.2019. The government realised that putting so many products under the 28 percent bracket was never a good idea and throughout 2018 various changes in tax rate was carried out. In the last council meeting, government has made various proposal of rate reduction, specifically for the goods covered under the 28% list, with an aim to restrict the higher rate list only to luxury and sin goods. We have compiled all the recommendations and decisions made by the GST Council in Page 3 & 4 of this issue which will be effective after the issuance of relevant Notifications/Circulars.

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
Regular Taxpayers (annual turnover > Rs 1.5 crore)	GSTR-1	December, 2018	11th Jan, 2019
Input Service Distributors	GSTR-6	December, 2018	13th Jan, 2019
Composite Dealers	GSTR-4	Oct - Dec, 2018	18th Jan, 2019
Regular Taxpayers	GSTR-3B	December, 2018	20th Jan, 2019
Regular Taxpayers (annual turnover < Rs 1.5 crore)	GSTR-1	Oct - Dec, 2018	31st Jan, 2019

WEST BENGAL SCHEME FOR SETTLEMENT OF DISPUTES

West Bengal Taxation Laws (Amendment) Act, 2018 was passed by the West Bengal Legislature on 17th December, 2018 which has paved the way for dispute settlement scheme. Amendments have been made in the West Bengal Sales Tax (Settlement of Dispute) Act, 1999 for settlement of disputes related to arrear of tax, late fee, interest or penalty arising out of an assessment under The West Bengal Value Added Tax Act, 2003, West Bengal Tax on Entry of Goods into the Local Areas Act, 2012 and The Central Sales Tax Act, 1956.

The amendments have been made to incorporate Late Fees and Interest payable by an assessee under the relevant Act and is in dispute in any proceedings. The coverage area has been widened to include the West Bengal Value Added Tax Act, 2003 and the West Bengal Tax on Entry of Goods into the Local Areas Act, 2012.

Eligibility for Settlement: The application for settlement of arrear tax, penalty, late fee or interest in dispute in a case is to be filed before any authority in respect of any period ending on or before the 30th day of June, 2017, for which—

(i) an audit, special audit or assessment has been made; or

(ii) an appeal, revision or review petition has been filed; or

(iii) a revision or review proceeding has been initiated; or

(iv) a notice or order has been issued intimating the applicant for payment of tax, interest, late fee or penalty; or

(v) a notice has been issued in any proceeding under the relevant Act proposing payment of tax, interest, late fee or penalty; and

which is pending on the 31st day of October, 2018.

Eligibility for Settlement of dispute pending before the West Bengal Taxation Tribunal/ High Court/ Supreme Court: Any application which is pending before WBTT/ HC/ SC on 31st October, 2018 in respect of any case where any tax, interest, late fee or penalty due is in dispute in respect of any period ending on or before 30th June, 2017. Such arrear tax, penalty, late fee or interest due shall be deemed to be "arrear tax, penalty, late fee or interest" with the same meaning as defined.

Application for Settlement: The application for settlement is to be made in FORM-1 on or before 31st March, 2019 as extended. Before submission of the application, the applicant shall make the payment of the amount as computed. Application for settlement upon payment of amount shall be deemed to be made within due date only when proof of payment of full amount payable in installments is furnished within 10 days after the expiry of 3 months from date on which application was submitted. The copy of application is to be sent to appellate authority, the revisional authority or the reviewing authority before whom the appeal, revision or review is pending.

Determination of Amount Payable by the Applicant: The dispute can be settled upon payment of fraction of disputed amount into the Reserve Bank of India or any appropriate Government Treasury as shown in the table below:

Sl. No.	Dispute Related to:	Amount to be paid for settlement:
1.	Arrear of tax for non-furnishing or non-production of any certificate or declaration	100% of remaining balance amount of arrear tax in dispute after adjusting Certificates/ Declarations in possession of applicant or the amount already paid towards such arrear, whichever is higher.
2.	a) Arrear of tax admitted in the return or in writing before the authority	100% or actual amount paid whichever is higher
	b) Arrear other than above	Higher of 35% or actual amount paid, if application made along with payment proof of full amount Higher of 40% or actual amount paid , subject to the conditions:- (a) application is made along with payment proof of 15% amount (b) balance paid in 3 monthly installments following the month in which application is made
3.	Entry Tax a) Arrear Tax	Higher of 100% or the actual amount paid
	b) Arrear Late Fees	Higher of 0% or the actual amount paid
4.	Arrear of late fee other than late fee mentioned above	Higher of 0% or the actual amount paid

Waiver of penalty: The amendments made has also covered waiver of penalty in the following cases-

i. Penalty imposed or which can be imposed due to late payment or non-payment of tax or default in furnishing return and where an application is made in respect of such penalty in dispute , the arrear penalty in dispute shall be waived.

ii. Penalty imposed or which can be imposed upon an assessee in cases other than cases mentioned in point (i) in accordance with the provisions of the relevant Act return and where –

- an application is made in respect of such penalty in dispute , Higher of 50% of arrear penalty in dispute or actual amount paid in respect of arrear penalty in dispute, shall be waived.
- an application is made in respect of such penalty in dispute relating to Entry Tax shall be waived.

GST COUNCIL RECOMMENDATIONS

The GST Council in its 31st meeting held on 22nd December, 2018, attempted to address genuine difficulties of various industries and proposed various recommendations as discussed. The same would be given effect through notifications and circulars which shall have force of law.

GST Returns

a. The council has approved for extension of due dates of some returns which is a welcome step for the taxpayers. The due date for FORM GSTR-8 to be filed by e-commerce operators (TCS Collector) for the months of October, November and December, 2018 to be extended to 31st January, 2019. Also, the due date for GST ITC-04 to be filed by principal manufacturer sending goods for job work, for the tax periods from July, 2017 to December, 2018 to be extended to 31st March, 2019.

b. It has been recommended to waive the late fees for the taxpayers who will furnish FORM GSTR-1, FORM GSTR-3B and FORM GSTR-4 after 22nd December, 2018 but on or before 31st March, 2019 for the tax period from July, 2017 to September, 2018.

c. Recommendation has been given by the council for making the norms of e-way bill stern. Restriction will be imposed for generation of e-way bills by the taxpayers who have failed to furnish returns for two consecutive tax periods.

d. The input tax credit relating to FY 2017-18 was allowed to be availed by 25th October, 2018 i.e. the d ue date of GSTR-3B for the month of September, 2018. The council has now recommended to allow for availment of input tax credit pertaining to FY 2017-18 till the due date for furnishing GSTR-3B for the month of March, 2019. This will also be an effective step towards reduction in tax costs.

e. A single cash ledger for each head of tax has been recommended by the council. Currently, each tax head has separate ledgers for Tax, Interest and Late Fees.

Refunds

a. Scheme of single authority for disbursement of refund sanctioned either by Center or State tax authorities will be implemented and the procedure for the same will be finalized shortly.

b. The facility of electronically uploading of supporting documents in relation to claim for refund in FORM GST RFD-01A will be enabled on the GST portal shortly. Currently, a taxpayer has to physically visit the jurisdictional officer for submitting the refund application after an application has been made in FORM GST RFD-01A.

c. The following refunds will be made available to the taxpayers through FORM GST RFD-01A:
   i) Refund on account of Assessment/Provisional Assessment/Appeal/Any Other Order
   ii) Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice-versa
   iii) Excess payment of Tax; and
   iv) Any other refund

d. Where application of refund has been filed before the rollout of online functionality, the supporting documents are still to be submitted physically. If not submitted within 60 days of generation of ARN at the jurisdictional office, the claimants will be sent communication on where to submit the application. If application is still not submitted within 15 days of the email, the application will be rejected and the debited amount will be re-credited.

Annual Return and Audit

The due dates for FORM GSTR-9/9A (Annual Return) and FORM GSTR-9C is recommended to be further extended till 30th June, 2019. This extension of deadline is a sigh of relief for the taxpayers since the Annual Return and Audit Form have still not been notified. The government is set to bring some clarificatory changes in the formats/ instructions of Annual Return/ Reconciliation Statement which a taxpayer needs to submit. The following changes will be carried out:

a. The headings in forms GSTR-9 and GSTR-9A will be amended to specify that the supplies shown in the returns would be 'made during the year' and not 'as declared in returns filed during the year'.

b. It will be mandatory to file all returns in FORM GSTR-1 and GSTR-3B before filing the Annual Return in FORM GSTR-9 and Audit Report in FORM GSTR-9C.

c. All returns in FORM GSTR-4 will also be required to be filed before filing FORM GSTR-9A.

d. In respect of inward supplies, HSN will be required to be declared only for those supplies whose independent value will be 10% or more of the total value of inward supplies.

e. An additional payment option is being provided through FORM GSTR-9. The payment can be made only in cash through FORM GST DRC-03.

f. It is clarified that input tax credit cannot be availed through FORM GSTR-9 and GSTR-9C.

g. All invoices pertaining to FY 2017-18 will be auto-populated in Table-8A of FORM GSTR-9. It will be irrespective of the month in which the invoices have been reported in FORM GSTR-1.

h. The value of 'non-GST supply' shall also include the value of 'no supply' and the same is to be reported in Table 5D, 5E and 5F of FORM GSTR-9.

i. Verification by taxpayer who is uploading reconciliation statement would be included in FORM GSTR-9C

Reverse Charge Mechanism

The GST Council in its 31st meeting has recommended to include the following services under Reverse Charge Mechanism:

- Security services provided to a registered person, except Government Departments which have taken registration for TDS and entities registered under composition scheme.
- Services provided by unregistered Business Facilitator to a bank and agent of Business correspondent to a Business correspondent.
- Parliament and State legislatures shall be extended the same tax treatment with regard to payment of tax under RCM as available to Central and State Governments.

GST COUNCIL RECOMMENDATIONS

Legislative Amendments

The council gave in principal approval to two amendments which will be made effective after necessary amendments in the GST Acts.

a. A significant amendment has been recommended for creation of Centralised Appellate Authority for Advance Ruling (AAAR). The Centralized Appellate Authority for Advance Ruling was much sought after by businesses; specifically those with PAN India presence. The Advance Ruling Authorities in different states have been passing contradictory rulings over many important issues. The creation of Centralised AAAR will help in passing binding decisions. The function of this authority will be to deal with the cases where decisions by two or more State Appellate Advance Ruling Authorities on the same issue have been conflicting.

b. The council has also recommended for amendment in Section 50 of the Central Goods and Services Tax Act, 2017 which deals with interest to be paid on the tax liability unpaid after the stipulated period of time. The recommendation is to make the interest leviable only on the amount paid through electronic cash ledger i.e. the tax liability after taking into consideration the admissible input tax credit.

Migration

The Government has once again decided to re-open the migration window upto 31st January, 2019 for taxpayers who received the Provisional Identification Number till 31st December, 2017, but could not complete the migration process. Such assesses will have to visit the jurisdictional nodal officer to furnish the requisite details. The due date of filing GSTR-1 and GSTR-3B for the newly migrated taxpayers for July, 2017 to February, 2019 will be extended till 31st March, 2019. The registration shall be deemed to be effective from 1st July, 2017. This move of opening the migration window again relaxed the taxpayers who couldn't complete the migration process.

ISSUES REFERRED TO OTHER PANELS

The GST Council decided to form a Group of Ministers to study revenue trend and discuss the following issues:

a. The rate of tax and threshold for small service providers to avail the composition scheme.

b. The threshold limit of exemption for Micro, Small and Medium Enterprises.

c. The taxation of residential property in real estate sector.

d. The tax rate on supply of lotteries under GST.

BOOK POST

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