Tax Talk 83
A Monthly Goods & Services Tax Bulletin
Vol : 6 | Issue No. 11 | February 2019 | Rs. 5/-

Editorial...

The government is all set to present its last budget before the Lok Sabha election on 1st February. Some positive announcements are expected from this budget as the government has to ensure that the changes proposed match with the expectations of the nation. People are expecting the government to announce some benefits for the poor and middle-class. All the decisions with respect to GST are taken by the GST Council. So, no such expectation is there from the budget on the indirect taxation front.

The GST Council in its 32nd meeting held on 10th January, 2019 has recommended changes with respect to the GST registration threshold limit and changes in the existing composition scheme along with new composition scheme introduced for service providers, which aims to give relief to micro, small and medium enterprises. Contrary to the expectations, decisions for real estate sector and uniformity of taxation applicable on lottery were not taken, but only a group of ministers have been constituted to examine composition scheme for real estate sector and GST rate structure for lottery. We have compiled the decisions taken by the Council in Page-4 of this issue which would be given effect through Gazette notifications/ circulars which shall have the force of law.

The government has notified the applicability of CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and GST (Compensation to States) Amendment Act, 2018 along with amendments in CGST Rules, notifications and Circulars issued earlier and the corresponding changes in SGST Acts from 1st February, 2019. In order to remove difficulties of the taxpayers, the government extended the due date to claim input tax credit benefit for the first financial year of Goods and Services Tax, till the due date of furnishing of GSTR-3B for the month of March, 2019 but the relief came with a condition. The data in the input tax credit should match with the return filed by their suppliers. The taxpayers can also rectify the errors, if any in filing the returns for the period July, 2017-March, 2018 till the due date of filing GSTR-1 for the month/quarter of March, 2019 which has proved to be of great benefit.

The Union Cabinet has approved the creation of National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT). This is a common forum under central as well as State GST Acts which will ensure that there is uniformity in redressal of disputes arising under GST.

Government in order to check the GST evasion and to smoothen the GST e-way bill system, will mostly associate with the FASTag mechanism of National Highways Authority of India (NHAI) from April. The transporters are doing multiple trips by generating a single e-way bill, so integrating e-way bill with FASTag would help find the location of the vehicle and when and how many times it has crossed NHAI's toll plazas. The changes proposed in 31st meeting has been notified by way of notifications, Circulars and orders. The recent notifications & circulars have been compiled on Page – 2 & 3 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	Month	Due date
Regular Taxpayers (annual turnover > Rs 1.5 crore)	GSTR-1	January, 2019	11th Feb, 2019
Input Service Distributors	GSTR-6	January, 2019	13th Feb, 2019
Regular Taxpayers	GSTR-3B	January, 2019	20th Feb, 2019

GST UPDATES

Amendment in CGST Rules

The GST Council in its 31st meeting tried to address the difficulties faced by taxpayers by making clarificatory amendments to the CGST Rules. The amendments in the rules have been incorporated in the CGST Rules, 2017 vide notification.

a) **Form ITC-04:** CBIC has provided relief to the taxpayers by relaxing the reporting requirements in FORM ITC-04. The rules have been amended to provide that the details of challans in respect of goods sent from one job worker to another are now no longer required to be reported in Form GST ITC – 04 which were required earlier.

b) **Invoice:** Currently, the signature or digital signature of the authorized representative is required to be affixed on various documents issued under GST law. The rules have now been amended to provide that where a document is issued electronically as per the provisions of the Information Technology Act, 2000, affixing signature or digital signature will not be mandatory.

c) **E-way bill:** The GSTN is developing an IT system that will restrict the taxpayers who have not filed returns for two consecutive tax periods from generating e-way bills. Even consignor, consignee, transporter, e-commerce operator or a courier agency will not be able to generate e-way bill for the specific non-filer. This move will help to check the tax evasion.

d) **GST Audit:** The GST audit undertaken by the tax authorities is permitted to be undertaken for a particular Financial Year or multiple Financial Years at present. Now, an amendment has been made to provide that the Commissioner or any officer authorised by him, by way of a general or a specific order, may now undertake audit of any registered person for part of financial year also.

(Notification No. 74/2018- Central Tax)

Printing of Pictures

Clarification by the board in respect of classification of 'printing of pictures' was required. CBIC has clarified that the service of 'printing of pictures' will attract GST @ 18% (9% CGST and 9% SGST). The service of 'printing of pictures' is being classified by the trade under service code 998912 'Printing and reproduction service of recorded media, on a fee or contract basis'. Since service of 'printing of pictures' are classified by trade under service code 998912, GST @12% is paid on the same. However, the correct classification is 998386- "Photographic and video graphic processing services" which attracts GST @ 18%. Therefore, it has been clarified by the board that service of "printing of pictures" falls under service code "998386: Photographic and video graphic processing services" and not under "998912: Printing and reproduction services of recorded media, on a fee or contract basis".

(Circular No. 84/2019-GST)

Tax Deducted at Source

The Central Government on recommendation of the council has made certain amendments with respect to the Tax Deducted at Source. All persons who are liable to deduct TDS when receive supplies from each other will not be liable to deduct TDS. Hence, Supplies made by Government Departments, local governments, government agencies and PSUs to one another will be exempted from TDS.

(Notification No. 73/2018- Central Tax)

GST on Programmes Conducted by IIMs

Clarification was sought with respect to the various programmes conducted by the Indian Institutes of Managements (IIMs). The Indian Institutes of Management Act, 2018 was applicable from 31st January, 2018. After the enforcement of the Act, the IIMs fall under the purview of "educational institutions" as defined in Notification No. 12/2017 since they provide education as part of curriculum for obtaining a degree recognised by law.

Since the inception of GST till 31st Jan, 2018, the IIMs were not considered as educational institutions under GST and hence they were not eligible for exemption for educational institutes. But, they were given specific exemption vide the exemption notification for the following three programmes:

(i) two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management,

(ii) fellow programme in Management,

(iii) five years integrated programme in Management.

Moreover, from 31st January, 2018 till 31st December, 2018, both the exemptions were available to IIMs i.e. the exemption of educational institutions and specific exemption for IIMs. Hence, they were eligible to avail either of the two for that period. The IIMs will be eligible for exemption as educational institutions only with effect from 1st January, 2019 as the specific exemption entry is being deleted from the notification.

Further, the IIMs also conduct various short duration courses in which the executives participate and are awarded with participation certificate for the same. These participants are not considered as 'students' of IIMs. Hence, the services provided by IIMs to these participants is not exempt under GST. It is taxable @ 18%.

To sum it up, it can be said that the services provided by IIMs to its students is exempt from GST whereas the services to participants is taxable under GST.

(Circular No. 82/2019-GST)

GST UPDATES

Supply of Food and Beverage

CBIC has clarified about the taxability of GST on supply of food and beverage services by educational institution to its students. Due to the two conflicting notifications, doubt was raised with regard to the taxability and the same has been clarified through circular. Notification no 11/2017-Central Tax (Rate) provide GST rate of 5 % on supply of food and beverages services which take place at canteen, mess, cafeteria of an institution such as school, colleges, hospitals etc. Further, supply of services by an educational institution to its students, faculty or staff is exempt vide Sl No. 66(a) through Notification No 12/2017-Central Tax (Rate). Above exemption includes the foods and beverages being served by an education institution.

The circular clarified that both the notifications should be read together. The outcome of entire clarification is tabulated here under for easy understanding:

Situation	GST Applicabilty
Foods and beverages supplied by an educational institution to its students, faculty and staff.	Such supply being made by the educational institution itself is exempt.
Food and beverages supplied by any person other than educational institutions based on a contractual agreement with such institution.	GST applicable @ 5%.

(Circular No. 85/2019-GST)

GST on Services to Banking Company

Clarification was required on value of services provided by Business Facilitator (BF) or Business Correspondent (BC) to a Banking Company. The arrangement of the transaction between BC and customers is that the BC cannot charge any fee from the customers for the services rendered to them, but the banks can charge some service charges for such services from the customers as per the RBI guidelines. Hence, the banking company is considered to be the service provider in the business correspondent model operated by the banking companies. So, the banking company is liable to pay GST on the amount of fee charged from the customers. It is immaterial whether the fee is received by the bank directly or through BC.

CBIC has also provided clarification regarding exemption on the services provided by BC or BF to the banking company in the individual capacity. It is hereby clarified that exemption will be available to BC or BF if the services provided by them are in relation to the accounts in a branch of the bank located in the rural area. The classification of branch of bank as located in the rural area is governed by the RBI guidelines.

(Circular No. 86/2019-GST)

Export of Services

In case of export of services, it is possible that the part of the contracts may be outsourced to another person located outside India to execute and fulfil contractual obligations. Full consideration towards export of services may not be received in India due to the following reasons:

a. Part payment made directly by the service recipient to the foreign outsourced party

b. Part payment retained overseas in accordance with the guidelines of the Reserve Bank of India.

The tax treatment of the said portion of the consideration at the hands of the exporter has been clarified by CBIC. There are two supplies that take place:

a. Export of services by the exporter to service recipient outside India for the full contract value.

b. Import of services by the exporter from service provider (foreign outsourced contractor) located outside India with respect to the outsourced portion of the contract.

The total value of services as agreed to in the contract between the exporter and the recipient outside India will be considered as export of services if all the conditions has been satisfied. The value of import of services by the exporter would be subject to payment of IGST under reverse charge mechanism (RCM) on the value of outsourced portion of the contract. The IGST so paid under RCM would be eligible for taking Input Tax Credit (ITC).

Where full consideration for services is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services), that portion of the consideration shall also be treated as receipt of consideration for export of services , if:

a. IGST under RCM has been paid by the exporter for import of services on the foreign outsourced contract value; and

b. RBI by general instruction or by specific approval has permitted to retain part consideration for exports outside India.

(Circular No. 78/2018-GST)

Asian Development Bank (ADB) and International Finance Corporation (IFC)

Clarification regarding applicability of GST on the services provided by Asian Development Bank (ADB) and International Finance Corporation (IFC) has been sought. It is clarified that the services provided by IFC and ADB are exempt from GST in terms of provisions of ADB Act and IFC Act, 1958. However, exemption will not be available to any other entity appointed by or working on behalf of ADB or IFC.

(Circular No. 83/2019-GST)

GST COUNCIL RECOMMENDATIONS

The 32nd GST Council meeting was held on 10th January, 2019. The major issues that were discussed during the meeting were increase in the exemption threshold limit and composition scheme for small suppliers. The recommendations with respect to composition scheme and higher exemption threshold will come into effect from 1st April, 2019. The council has also approved to levy cess at a rate upto 1% on intra-state supply of goods and services within the State of Kerala in order to mobilize revenue. The key decisions from the meeting are as follows:

GST Registration

The Council has recommended for two threshold limits for exemption from registration under GST in case of supplier of goods i.e. Rs. 40 lakhs and Rs.20 lakhs. Currently, the basic exemption limit for registration for supplier of goods and supplier of services is Rs. 20 lakhs and for special category states is Rs. 10 lakhs. The limit for supplier of services will remain unchanged. The individual State Governments will have to decide one out of the two proposed limits for supplier of goods. The decision will now lead to various States having different GST threshold limits overtime.

Composition Scheme

Recommendations have been made for changes in the existing composition scheme as well as introduction of new composition scheme for Micro, Small and Medium Enterprises (including small traders).

a) **Existing Composition Scheme:** The existing limit of turnover in the previous financial year for availing composition scheme of goods is Rs.1 crore. The same has been recommended to be enhanced to Rs. 1.5 crore. The State Government of Special Category States will decide for composition limit in their respective states.

b) **Composition Scheme for services:** A composition scheme has been recommended to be introduced for the service providers and mixed suppliers who are presently not eligible for the existing composition scheme. The scheme will be available for such suppliers having annual turnover in the preceeding financial year upto Rs. 50 lakhs. The rate of tax for the scheme will be 6% (3% CGST and 3 % SGST).

c) **Compliance Simplification for Composite Dealers:** The compliances for taxpayers under composition scheme are being simplified by the council. It has been recommended that such taxpayers will be required to file only one annual return and payment of taxes will be made on a quarterly basis along with a simple declaration.

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 February 2019