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TAX TALK

A Monthly Goods & Services Tax Bulletin

Vol : 7 | Issue No. 01 | April 2019 | Rs. 5/-

Editorial...

A very Happy and Prosperous **New Financial Year 2019-20** to all our readers. Wishing you all the best as we begin another journey of challenges, victories, lessons and changes. We are happy to inform that with this 85th issue of Tax Talk, we have entered into **8th year** of publication. When we started the journey of Tax Talk, we had no idea that we will get such tremendous response from our readers who have kept us motivated for adding value to the cult of reforms unleashed at a rapid pace in the recent past.

The 34th GST Council Meeting held on 19th March 2019, was convened to discuss the operational details for implementation of the recommendations made by the council in its 33rd meeting for lower effective GST rate of 1% in case of affordable houses and 5% on construction of houses other than affordable house. The council meeting centered on the applicability of tax rates for under construction housing projects and rules related to the transition from old rates to new rates in case of existing projects. The various decisions have been given effect through notifications issued on 29th March, 2019 which have been covered in details in Page-3 & 4 of this issue.

Certain new amendments in order to bring relief to the taxpayers have also been announced. The threshold limit for exemption from registration for person engaged in exclusive supply of goods has been increased to Rs.40 lakhs for states opted for it. Also, the turnover limit for the composition scheme for goods has been enhanced to Rs.1.5 crore and for Special Category States to Rs.75 Lakhs. The government to benefit the supplier of services or goods or both brought a new scheme to pay tax at the rate of 6% for specific category of suppliers. The relevant notification & circulars have been compiled on Page-2 of this issue.

Facility for filing Annual Return (GSTR-9/9A) is now available on GSTN portal for the Financial Year 2017-18. The taxpayers are advised to be careful while filing annual return as there is no revision facility provided by the government. CBIC has also released the draft new GST return formats (Sahaj, Sugam, Normal) for public comments which are available in the download section of the portal. It is evident that the existing system of return filing will continue till June, 2019 as the due dates for filing GSTR-1 and GSTR-3B has been announced. Due date for filing Form GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker during the period from July, 2017 to March, 2019 have been extended till 30th June, 2019.

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 on my facebook wall.

CA Sushil Kr Goyal

DUE DATES

Particulars	Return	Month	Due date
Regular Taxpayers (annual turnover > Rs 1.5 crore)	GSTR-1	March, 2019	11th Apr, 2019
Input Service Distributors	GSTR-6	March, 2019	13th Apr, 2019
Composite Dealers	GSTR-4	Jan-Mar, 2019	18th Apr, 2019
Regular Taxpayers	GSTR-3B	March, 2019	20th Apr, 2019
Regular Taxpayers (annual turnover < Rs 1.5 crore)	GSTR-1	Jan-Mar, 2019	30th Apr, 2019

GST UPDATES

New Scheme for Taxpayers

As per recent amendment in GST Amendment act 2018, the composition taxpayers will be allowed to supply services (other than restaurant services), for up to a value that will be higher of 10% of turnover in a state in previous financial year or Rs. 5 lakh. However there are many service providers who could not opt the benefit of composition scheme under section 10(1) since their turnover is more than 5 lakh. The government to benefit the supplier of services or goods or both brought a new scheme. Key provisions of the scheme are as follows:

Applicability

Every supplier of goods or service or both, whose aggregate turnover in the preceding financial year was fifty lakh rupees or below may opt to pay GST @ of 3% CGST & 3% SGST for first aggregate turnover up to fifty lakh made from 1st April in any financial year.

Conditions for opting benefits under the scheme

Supplier of services or goods or both shall be entitled to opt for such scheme subject to following conditions:

- Aggregate turnover of supplier during preceding F.Y. has not exceeded Rs 50 Lakhs.
- Supplier is not eligible to pay tax section 10(1) of the CGST Act, 2017. Section 10(1) provides for benefit of composition scheme for supplier of goods or supplier of food or beverages at restaurant.
- Supplier is not engaged in making any inter-state supply.
- Supplier is not engaged in any supply which is not leviable to Goods and Services tax.
- Casual taxable person and Non-resident taxable person arenot eligible for this scheme.
- Supplier is not making supply through e-commerce operator who is liable to collect Tax Collected at Source ("TCS")
- Person is not engaged in making any supply of Ice cream and other edible ice cream, Pan Masala and Tobacco and manufactured Tobacco substitutes.
- Where the supplier has more than one registration then all units will be required to opt for this scheme.
- Supplier will not collect GST from recipient and will not be entitled to avail Input Tax Credit.
- Supplier should issue "Bill of Supply" and he should mention on words on top of bill of supply that "taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies"
- Supplier opting for the said scheme under this notification is required to discharge GST on exempted supplies also under this scheme.
- Supplier will be liable to pay tax under reverse charge mechanism.
- While computing "Aggregate Turnover" value of exempt services by way of providing deposits, loans or advances where consideration given by way of interest or discount, shall not be taken into account.

Meaning of First supplies of goods or services or both

"First supplies of goods or services or both" to determine eligibility under this notification, shall include supplies made from 1st April till the date person becomes liable to register under GST. However, same shall not be included for discharging the tax liability.

E.g. An unregistered person starts intra-state supply of service from 1st April. His liability to register under GST arises when his turnover exceeds threshold limit of INR 20 Lakhs. After obtaining registration, such registered person makes supply worth of INR 30 Lakhs. Accordingly, person shall opt to pay tax @ 6% upto first supply of Rs. 50 Lakhs. He is required to discharge GST on remaining Rs 30 Lakhs at applicable rates under this notification.

(Notification No. 02/2019-Central Tax Rate)

Exemption from Registration

The government has increased the threshold limit to Rs. 40 lakhs for registration for persons who are engaged in exclusive supply of goods and whose turnover in the financial year does not exceed 40 lakh rupees. However, the limit shall not apply to-

- Persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.
- Persons required to take compulsory registration.
- Suppliers of Ice cream, Pan masala, Tobacco and manufactured tobacco substitutes.
- Persons opting for voluntary registration or intending to continue with the registration under the act. This means that person willing to opt for the limit has to surrender the existing registration.

The threshold limit for supplier of services remains unchanged. It will continue to be Rs. 20 lakhs and for special category states the limit will remain 10 lakhs.

(Notification No. 10/2019-Central Tax)

Nature of Supply of Priority Sector Lending Certificates (PSLC)

Clarification was required for nature of supply of Priority Sector Lending Certificates (PSLC) by banks on e-Kuber portal of RBI. It has been clarified that Nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Hence, IGST will be payable on supply of PSLC traded over e-Kuber portal. However, where the bank liable to pay GST has already paid CGST/SGST, such banks shall not be required to pay IGST towards such supply for the payments already made.

(Circular No. 93/2019-Central Tax)

GST ON REAL ESTATE

The GST Council held its 34th council meeting on 19th March, 2019 to address the issues of real estate sector. Various decisions were taken and these changes will have substantial impact on the sector. The meeting brought some positive news for the Real Estate industry. CBIC has issued various notifications to give effect to the decisions taken by the council which have been discussed at length.

Option for Ongoing Projects

The GST council has decided the following treatment for ongoing projects:

- The taxpayers have been given to exercise one -time option in the prescribed form to continue to pay tax at the old rates (effective rate of 8% or 12% with ITC) on ongoing projects by 10th May, 2019.
- On-going project means where construction and actual booking both have commenced prior to 1st April, 2019. Further, commencement certificate has been received and completion certificate has not been issued or first occupancy has not taken place for the same.
- Option once exercised can't be changed for a project. If the option is not exercised within the prescribed time limit, new rates shall apply.
- The invoices for supply issued between 01st April, 2019 to 10th May, 2019 before exercising the option shall be in accordance with the option to be exercised.

Conditions for new tax rates

The new tax rates are applicable subject to following conditions-

- No input tax credit will be available.
- Credit of input tax charged on goods and services used in supplying the services has not been taken except to the extent as prescribed.
- Pay either in cash or by utilizing credit, an amount equivalent to the input tax credit attributable to construction in a project, time of supply of which is on or after 1st April, 2019.
- In case transfer of development right against consideration, wholly or partly, in the form of construction of apartments, developer shall pay tax on supply of construction of apartments to the landowner.
- Land owner shall be eligible for credit of taxes charged from him by the developer towards the supply of construction of apartments by developer to him, provided the landowner further supplies such apartments to his buyers and pays tax on the same which is not less than the amount of tax charged from him on construction of such apartments by the developer.
- 80% of input and input services (other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas) shall be purchased from registered persons.
- Input and input services on which tax is paid on reverse charge basis will be deemed to have been received from registered person and thus included in the limit of 80%.
- Capital Goods and cement supplied to promoter for construction of a project, irrespective of the limit of 80%, shall be paid under reverse charge mechanism at applicable rates. However, such amount paid in case of cement under RCM will be considered for calculating the limit of 80%.
- If promoter fails to make 80% of purchase from registered person then he is required to pay GST under reverse charge mechanism on shortfall at the rate of 18%.
- Developer shall maintain project wise account of inward supplies from registered and unregistered supplier and calculate tax payments on the shortfall at the end of the financial year and submit the above details in the prescribed form electronically on the common portal by end of the quarter following the financial year.
- The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output tax liability in the month not later than the month of June following the end of the financial year.
- Not with standing any thing contained above, tax on cement received from unregistered person shall be paid in the month in which cement is received.
- Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B. [Row. 4(D)(2)]

Input Tax Credit

The board has prescribed the manner for attribution of Input tax credit in case of construction of residential portion in a real estate project (REP) and construction of residential and commercial portion in residential real estate project (RREP), which has time of supply on or after 1st April, 2019.

The input tax credit attributable shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay central tax at the existing rates of 12% and 18% (Effective rate 8% and 12%), as the case may be, in the prescribed manner, before the due date for furnishing September, 2019 return.

GST ON REAL ESTATE

New Tax Rates

The government has notified the new tax rates for new projects or ongoing projects in respect of which promoters have exercised to pay under new tax regime.

Type of Project	GST Rate	Effective Rate
Construction of affordable residential apartments. (RREP & REP)	1.5%	1%
Construction of residential apartments other than affordable residential apartments. (RREP & REP)	7.5%	5%
Construction of Commercial apartments in RREP (Residential Real Estate Project)	7.5%	5%

The rate of construction of commercial apartment in REP will continue to be 18% (Effective Rate- 12%).

For the purpose of the above, "Residential Real Estate Project (RREP)" shall mean a REP in which the carpet area of the commercial apartments is not more than 15% of the total carpet area of all the apartments in the REP.

The effective rate is computed after deducting the value of transfer of land which is one-third of the total value charged.

Taxability of TDR, FSI, Long term lease

- Exemption has been provided (subject to the conditions mentioned in Sl. No. 41A of notification no. 12/2017- Central Tax Rate) on supply of TDR, FSI and consideration for long term lease (lease of 30 years or more) of land in the form of upfront premium on or after 1st April, 2019 for construction of residential apartments by promoter, provided that entire consideration has been received before issuance of completion certificate and tax is paid on it.
- The promoter shall be liable to pay tax at the applicable rate, on reverse charge basis for the residential apartments which remain unbooked on the date of issuance of completion certificate, or first occupation of the project, as the case may be in the prescribed manner.

  However, the tax payable shall not exceed 1% of the value in case of affordable residential apartments and 5% of the value in case of residential apartments other than affordable residential apartments remaining un- booked on the date of issuance of completion certificate or first occupation.
- The liability to pay tax will arise on the date of issuance of completion certificate.

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 April 2019