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TAX TALK

A Monthly Goods & Services Tax Bulletin

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Editorial...

Newly elected Finance Minister Ms. Nirmala Sitharaman unveiled the budget of 2nd term of Modi Government challenging fiscal situation. Budget 2019-20 was "realistic" and that the focus on agriculture, investments, infrastructure, women empowerment lay foundation for nearly doubling the size of the economy to USD 5 trillion in five years. The government has introduced Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 to tackle the pending cases under former indirect tax regime. Some clarification and rules for the scheme will be expected once it is enacted. (Refer Pg 4)

GST completed two years during which several milestones have been achieved. Some of them are (as of June 2019) that the total GST Registrations has doubled up to 1.22 Cr, total number of GST Returns filed – 28 Cr, total number of E-Way Bill Generated – 70 Cr and total tax collected has crossed 21.23 lakh Cr. Government is relentlessly working on ease of compliance. Some of the significant changes which the government is coming up with are simple return mechanism especially to small businessmen, rationalizing cash ledger and automating refund mechanism.

The GST Council has held 36 meetings till date to take important decision and has been continuously addressing the concerns of the taxpayers. In the 36th council meeting held on 27th July recommendation has been made for reduction in sales of electric vehicles & charging stations for EVs to 5%. Also, hiring of electric buses by local authorities of capacity more than 12 passengers to be exempted from GST has been recommended. Due date of GST CMP-08 for the quarter April to June, 2019 has been extended to 31st August, 2019. Last date of filing intimation, in Form GST CMP-02, to avail the benefit of Notification no.2/2019 dated 07-03-2019 has been extended to 30th September, 2019.

GSTN has enabled two options under new return trial in the GST portal (a) New Return Prototype and (b) Offline Tools for new Return (Trial). The same has been enabled for trial purpose by the taxpayers, so that difficulties faced, if any while filing the returns on trial basis can be conveyed to the GSTN in the form of feedbacks and suggestions and user-friendly measures can be taken to simplify the return filing procedure still further. The government has notified Form GST EWB-05 for application to unblock e-way bill generation and Form GST EWB-06 for order for permitting or rejecting the application made in EWB-05.

Last date of filing GSTR 9, GSTR 9A and GSTR 9C is 31st August, 2019. All of us should file our Annual returns and Reconciliation statements well within time, as the date has already been extended thrice. Government has clarified issues through circulars on Annual returns and Reconciliation statements. CBIC has also come up with Audit Manual which can be downloaded from the website. The recent notifications and 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 on my facebook wall.

DUE DATES			
Category of Taxpayer	**Return**	**Period**	**Due date**
Monthly Output Return	GSTR – 1	July, 2019	11th August, 2019
Monthly ISD Return	GSTR – 6	July, 2019	13th August, 2019
Monthly GST Return	GSTR – 3B	July, 2019	20th August, 2019
Annual Return	GSTR – 9/9A	2017-18	31st August, 2019
All taxpayer Reconciliation Statement(Audit Certificate)	GSTR – 9C	2017-18	31st August, 2019
Quarterly Payment (Composition)	GST CMP – 08	April-June,2019	31st August, 2019

SERVICE TAX / GST UPDATES

CLARIFICATION ON RWA

Supply of services by RWA to its own members by way of reimbursement of charges or share of reimbursement of charges or share of contribution up to an amount of Rs.7500 per month per member for procuring services and goods for the common use of its members in a housing society or a residential complex is exempt from GST. Prior to 25th June, 2018 the limit was Rs.5000.

Person who owns two or more flats: A person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment separately and will be eligible for 7500 for each flat.

Entire amount is taxable: In case the charges exceed Rs. 7500/- per month per member, the entire amount is taxable.

(Circular No. 109/28/2019-GST dt 22.07.2019)

GOODS FOR EXHIBITION/CONSIGNMENT OUT OF INDIA

The goods for exhibition/consignment basis out of India shall be accompanied with a delivery challan.

Time of supply of such goods: The specified goods sent/taken out of India are required to be either sold or brought back within the stipulated period of six months from the date of removal. If the specified goods are sold abroad fully or partially within the specified period of six months the supply is effected, in respect of the quantity so sold, on the date of such sale. Otherwise the supply would be deemed to have taken place on the expiry of six months.

Refund in such case: The activity of sending /taking specified goods out of India is not a zero-rated supply. Therefore, the sender cannot prefer any refund claim. The registered person can claim refund of accumulated input tax credit only in relation to specified goods sold or deemed to have been sold.

(Circular No. 108/27/2019-GST dt 18.07.2019)

AMENDMENT

A registered person is required to issue an electronic ticket while supplying services of exhibition of cinematograph films in multiplex screens. This ticket shall be a deemed tax invoive for all the purpose of CGST Act, even if the details of recipient is missing. A person supplying such services in a screen other than multiplex screens can also follow this procedure.

(Rule 54(4A), newly inserted w.e.f 01.09.2019)

EXEMPTION TO HANDLOOM SECTOR

Government has exempted the handloom sector, turnover of most of the weavers does not exceed Rs 20 Lakh and therefore they do not require registration under GST.

(Press release dated 11.07.2019)

INFORMATION TECHNOLOGY ENABLED SERVICES

CBIC has clarified various possible scenarios when a supplier of ITeS services located in India supplies services for and on behalf of a client located abroad. The scenarios are as follows:

Scenario I- The supplier of ITeS services supplies back end services-the supplier will not be categorised as intermediary.

Scenario II – The supplier of backend services located in India arranges or facilitates the supply of goods or services or both by the client located abroad to the client's customer- the supplier will fall under the ambit of intermediary.

Scenario III – The supplier of ITeS services supplies backend services on his own account along with arranging or facilitating the supply of various support services of supply for and on behalf of the client located abroad-the supplier of such services would fall under the ambit of intermediary will depend on the facts of each case.

CBIC further clarified that supplier of ITeS services, who is not an intermediary can avail benefits of export of services if it satisfies the criteria mentioned in subsection (6) of section 2 of the IGST Act.

(Circular No. 107/26/2019-GST dt 18.07.2019)

SERVICE TAX: CIRCULAR

All services mentioned in the notification 26/2012-Service Tax dated 20.06.2012 do not become exempted service. They will become so only if they satisfy both of conditions specified in Section 2(e) of the Cenvat Credit Rules,2004 i.e. there is a restriction on both inputs and input services.

When providing the service portion in an activity wherein goods, being food or any other article of human consumption or any drink is supplied in any manner as part of the activity, there is no need for any reversal of credit under rule 6(3) of the Cenvat Credit Rules 2004. Only restrictions in rule 2C of the Service Tax (Determination of Value) Rules 2006 need to be followed, which deals with determination of value of service portion.

According to Rule 2C

Sl. No.	Description	Percentage of Total Amount
1.	Service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity, at a restaurant	40
2.	Service portion in outdoor catering wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of such outdoor catering	60

(Service Tax Circular No. 213/3/2019 dt 05.07.2019)

ANNUAL RETURN AND RECONCILITION STATEMENT

Payment of any unpaid tax: If a taxpayer has not paid, short paid or has erroneously obtained/been granted refund or has wrongly availed or utilized input tax credit then before the service of a notice by any tax authority, the taxpayer may pay the amount of tax with interest and without penalty.

Primary data source for declaration in annual return: There are two scenarios when the information and values in FORM GSTR-1, GSTR-3B and books of accounts does not match. Either tax was not paid to the government or tax was excess paid. If the tax was not paid the same should be paid and declared in the annual return. If tax was excess paid refund may be applied through FORM GST RFD-01A. Further no ITC can be reversed or claimed through annual return. Any reverse of ITC can be done through FORM GST DRC-03 separately.

Premise of Table 8D of Annual Return: There appears to be some confusion regarding declaration of ITC in Table 8 of the annual return. The ITC which is declared / computed in Table 8D is a credit that was available to a taxpayer in his FORM GSTR-2A but was not availed by him during July 2017 to March 2019. The deadline has already passed and the taxpayer cannot avail such credit now. There is no question of lapsing of any such credit, since this credit never entered the electronic credit ledger of any taxpayer. Therefore, taxpayers need not be concerned about the values reflected in this table. This is merely information that the Government needs for settlement purposes.

Premise of Table 8J of Annual Return: All credit of IGST paid at the time of imports between July 2017 to March 2019 may be declared in Table 6E. If the same is done properly by a taxpayer, then Table 8I and 8J shall contain information on credit which was available to the taxpayer and the taxpayer chose not to avail the same. The deadline has already passed and the taxpayer cannot avail such credit now.

Difficulty in reporting of information not reported in regular returns: There have been a number of representations regarding non-availability of information in Table16A or 18 of Annual return in FORM GSTR-9. It has been observed that small taxpayers are facing a lot of challenge in reporting information that was not being explicitly reported in their regular statement/returns. Therefore, taxpayers are advised to declare all such data / details (which are not part of their regular statement/ returns) to the best of their knowledge and records. This data is only for information purposes and reasonable/ explainable variations in the information reported in these tables will not be viewed adversely.

Information in Table 5D (Exempted), Table 5E (Nil Rated) and Table 5F (Non-GST Supply): There appears to be some confusion over what values are to be entered in Table 5D,5E and 5F of FORM GSTR-9. Since, there is some overlap between supplies that are classifiable as exempted and nil rated and since there is no tax payable on such supplies, For the purposes of reporting, non-GST supplies includes supply of alcoholic liquor for human consumption, motor spirit (commonly known as petrol), high speed diesel, aviation turbine fuel, petroleum crude and natural gas and transactions specified in Schedule III of the CGST Act.

Reverse charge in respect of Financial Year 2017-18 paid during Financial Year 2018-19: It may be noted that since the payment was made during FY 2018-19, the ITC on such payment of tax would have been availed in FY 2018-19 only.

Role of chartered accountant or a cost accountant in certifying reconciliation statement: With respect to the reconciliation statement, their role is limited to reconciling the values declared in annual return (FORM GSTR-9) with the audited annual accounts of the taxpayer.

Turnover for eligibility of filing of reconciliation statement: The aggregate turnover i.e. the turnover of all the registrations having the same Permanent Account Number is to be used for determining the requirement of filing of reconciliation statement. Therefore, if there are two registrations in two different States on the same PAN, they are both required to file reconciliation statements individually for their registrations since their aggregate turnover is greater than Rs. 2 Crore. The aggregate turnover for this purpose shall be reckoned for the period July, 2017 to March, 2018.

Treatment of Credit Notes / Debit Notes issued during FY 2018-19 for FY 2017-18: No credit note which has a tax implication can be issued after the month of September 2018 for any supply pertaining to FY 2017-18; a financial/ commercial credit note can be issued. If the credit or debit note for any supply was issued and declared in returns of FY 2018-19 and the provision for the same has been made in the books of accounts for FY 2017-18, the same shall be declared in Pt. V of the annual return. Many taxpayers have also represented that there is no provision in Pt. II of the reconciliation statement for adjustment in turnover in lieu of debit notes issued during FY 2018-19 although provision for the same was made in the books of accounts for FY 2017-18. In such cases, they may adjust the same in Table 5O of the reconciliation statement in FORM GSTR-9C.

Duplication of information in Table 6B and 6H: The label in Table 6H clearly states that information declared in Table 6H is exclusive of Table 6B. Therefore, information of input tax credit is to be declared in one of the rows only.

Reconciliation of input tax credit availed on expenses: Table 14 of the reconciliation statement is for reconciling of ITC availed on expenses with ITC declared in the annual return. Only those expenses are to be reconciled where input tax credit has been availed. The list of expenses given in Table 14 is a representative list of heads under which input tax credit may have been availed. The taxpayer has the option to add any head of expenses.

(Press Release dt 03.07.2019)

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 was introduced in the budget presented on 5th July by the Finance Minister to settle the unresolved issues of pre GST regime.

The scheme will cover the unconcluded disputes of Central Excise Tax, Service Tax and cesses and will provide relief by waving 40% to 70% of tax pending, 100% of interest and penalty along with relief from prosecution. The date of availability of the scheme has not been notified yet.

Applicability: Scheme has applicability on the tax dues under 29 enactments.

Eligibility: All persons are eligible to opt this scheme, except the following-

- Who have filed an appeal before the appellate forum and such appeal has been heard finally on or before 30.06.2019
- Who have been convicted for any offence punishable for the matter for which he intends to file a declaration
- To whom a show cause notice have been issued and the final hearing has taken place on or before the 30.06.2019
- To whom a show cause notice for an erroneous refund or refund, have been issued.
- who have been subjected to an enquiry or investigation or audit and the amount of duty involved in the said enquiry or investigation or audit has not been quantified on or before the 30.06.2019
- a person making a voluntary disclosure

(i) after being subjected to any enquiry or investigation or audit; or

(ii)after having filed a return wherein he has indicated an amount of duty as payable, but has not paid it

- who have filed an application in the Settlement Commission for settlement of a case
- Persons seeking to make declarations with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944.

Quantum of relief:

Details	Amount (In Rs)	Relief
Tax dues relatable to SCN or appeal arising out of such SCN which is Pending as on 30.06.2019 and	< 50 lakhs	70% of the Tax dues
	> 50 lakhs	50% of the Tax dues
Tax dues relatable to SCN for late fee or penalty only and the amount of duty has been paid or is nil	-	Entire amount of late fee or penalty
Tax Dues are relatable to amount in arrears	< 50 lakhs	60% of the Tax dues
	> 50 lakhs	40% of the Tax dues
Tax dues are linked to an enquiry, investigation or audit against the declarant and the amount quantified on or before 30th June	< 50 lakhs	70% of tax dues
	> 50 lakhs	50% of tax dues
Tax dues are on account of voluntary disclosure by the declarant	-	No relief

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