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GST

TAX TALK

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Editorial...

Twenty seven months after India's biggest and boldest tax reform hit the ground, the challenges have spread from the discontentment of small traders to more systemic issues. GST is always claimed to be a 'Win-Win-Win' proposition for all the stakeholders, that is, the Centre, the States and the taxpayers. However, the taxpayers, particularly the small taxpayers, bearing the brunt of the increased compliance burden and the compliance cost. The situation is further worsened by the ailing GSTN portal.

The Council has announced a slew of measures or recommendations in its 37th Meeting held on September 20, 2019 at Goa which aimed at easing the compliance burden for the taxpayers, particularly the small taxpayers; reducing the tax burden for the unorganized sectors, even while attempting the rate rationalization and ironing out the creases in the interpretation and implementation of certain statutory provisions. Recommendations were made relating to relaxations in annual return filing, rate revisions, deferment of new GST returns, changes to composition scheme, input tax credit eligibility criteria, extension date of filing of appeal, new GST exemptions and some clarifications. The key decisions of the Council have been captured at Page 2 & 3.

While the taxpayers and the tax professionals heaved a great sigh of relief at the extension of due date for filing the Annual Returns in FORMS GSTR-9 or GSTR-9A, as the case may be and the Reconciliation Statement in FORM GSTR-9C for the F.Y. 2017-18 to 30th November, 2019, one shouldn't go 'gung-ho' over this relief as it has some unintentional but inevitably serious implications. Limitation period for issue of show cause notice is linked to the last date for issuance of the order which, in turn, is based on the due date for furnishing annual return.

With the aim to resolve nearly 1.5 lakh cases involving an amount of Rs.3.75 lakh crores pending under legacy disputes of indirect taxes, the Government has announced Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 which is operational from 1st September, 2019. However, there are a few critical areas that remain unaddressed in the Scheme. Recently,a circular has been issued for addressing some of the nagging doubts/issues that existed amongst the Trade and the Consultants/Tax practitioners. Same is discussed at Page 4 of the issue.

The online processing of refund applications and single authority disbursement has been implemented to speed up and simplify the process of refund. The GST portal keeps rolling out new updates to help taxpayers file their returns more smoothly and effectively. Option for composition scheme by taxpayers dealing with services, in Form GST CMP -02, has been made available on the GST Portal. Taxpayer can select category as specified in the form and multiple options can be selected. Taxpayer who have filed Form GSTR -1 /GSTR 3B for April/May/June 2019 cannot opt for this now. Taxpayers coming under this scheme can file return Form CMP-08 only.

Adding of Bank Account details by Tax Deducted at Source (TDS)/Tax Collected at Source (TCS) and Temp Registrants. In the "Search Taxpayer functionality" available on GST Portal, Trade Name of the taxpayer will also be now made available as part of taxpayer profile.

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

Category of Taxpayer	Return	Period	Due date
Monthly Output Return (annual turnover > 1.5 cr)	GSTR-1	September, 2019	11th October, 2019
Quarterly Output Return (annual turnover < 1.5 cr)	GSTR-1	July - September, 2019	31st October, 2019
Composition Dealer	GSTR-4 (CMP 08)	July - September, 2019	18th October, 2019
Monthly ISD Return	GSTR-6	September, 2019	13th October, 2019
Monthly GST Return	GSTR-3B	September, 2019	20th October, 2019

GST UPDATES

The 37th GST Council Meeting was heldin Panaji, Goa on Friday,20thSeptember, 2019 under the chairpersonship of Hon'ble Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman and was attended by representatives from other States and Union Territories. Various decisions on matters relating to GST rates, exemptions, clarification and other measures were taken at the meeting.

The Meeting mainly aimed at promoting Small & Medium Enterprises, providing relief through rate cuts to specific sectors such as hotels, gems & jewellery and defence, promoting exports and boosting overall economic growth.The following are the important decisions that were taken at the GST meeting:

1. **Relaxation from Filing Annual Return:**

   A major relief was granted to MSME's by waiving off GSTR-9A (Annual Return for composition taxpayers) and making GSTR 9 optional for persons with turnover upto Rs. 2 Crores in F.Y. 2017-18 and F.Y. 2018-19. However, persons with Turnover more than Rs. 2 Crores are still required to file AnnualReturn in GSTR-9 and a Reconciliation Statement in GSTR-9C.

2. **Deferment of New Return System:**

   The new return system which was proposed to be implemented from October, 2019, has now been deferred till April, 2020. This would allow the taxpayers and the system to get familiar with the trail version of the new returns available on the common portal. Taxpayers are required to continue filing Form GSTR 3B and Form GSTR 1 till March, 2020.

3. **Restrictions on ITC claim in GSTR-3B:**

   To push the timely filing of a statement of outward supplies by taxpayers, the GST Council recommended restrictions on Input Tax Credit (ITC) claim. ITC will be restricted for the recipients if the suppliers have not furnished the details of outward supplies.

4. **Export promotion:**

- Place of supply of specified R&D services (such as Integrated discovery and development, Evaluation of the efficacy of new chemical/ biological entities in animal models of disease,Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays,Drug metabolism and pharmacokinetics of new chemical entities,Safety Assessment/ Toxicology,Stability Studies,Bio Equivalence and Bio Availability Studies, Clinical trials,Bio analytical studies) provided by Indian pharma companies to foreign service recipients will be the place of effective use and enjoyment of a service i.e. location of the service recipient.
- Place of supply of service provided by Indian companies to foreign clients by using sample test kits in India is the location of the service recipient.

5. **Exemptions:**

- Storage or warehousing service for cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, rice, coffee and tea.
- To increase the validity of conditional exemption of GST on export freight by air or sea by another year, i.e. till 30.09.2020.
- "BANGLA SHASYA BIMA" (BSB) crop insurance scheme of West Bengal Government.
- Services of life insurance business provided or agreed to be provided by the Central Armed Paramilitary Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the respective Group Insurance Schemes of these Central Armed Paramilitary forces.
- Supplies of goods or services to FIFA- specified individuals for the Under-17 Women's Football World Cup in India.
- Supply to the Food and Agriculture Organisation (FAO) for specified projects in India.
- Services provided by an intermediary to a supplier of goods or recipient of goods when both the supplier and recipient are located outside the taxable territory
- Imports of certain defence goods not made indigenously (up to 2024).
- Import of silver/platinum by specified agencies (Diamond India Ltd), and the supply of silver/platinum by specified nominated agencies to exporters for the export of jewellery.
- Diamond India Limited (DIL) will be included in the nominated agencies for IGST exemption and Nil GST rates on importing Gold, Silver or Platinum

6. **GST & Cess concession in certain cases:**

- Exemption to Fish meal is applicable from 01.07.17 to 30.09.19. Although any tax collected during the period should be deposited.
- Wheels, pulleys and other parts and used parts of agricultural machinery are exempted (falling under at the GST rate of 12% from 1.07.17 to 30.09.19)
- Passenger vehicles with 1500 cc diesel engine shall have 3% cess
- Passenger vehicles with 1200 cc petrol engine shall have 1% cess
- Vehicles not exceeding 4000 mm (designed for 9 passengers) shall have 1% cess for petrol and 3% cess for diesel
- Option to pay GST at the rate of 18% on transaction value at the time of disposal of specified goods for

petroleum operations (on which concessional GST rate of 5% was paid at the time of original supply) provided that the goods are certified by Director General Hydrocarbon (DGH) as non-serviceable.

- To specify modalities for allowing concessions on spare parts imported temporarily by foreign airlines for the repair of their aircraft, while in India in transit in terms of the Chicago Convention on Civil Aviation.

7. Reverse Charge Mechanism:

- Security lending services can be filed at 18% under the reverse charge mechanism. For security lending services filed before the reverse charge mechanism, GST charges can be filed on a forward charge basis.
- IGST will be applicable for services rendered and incase if CGST, SGST or UTGST has been paid, taxpayers are not required to pay again.
- Services rendered by suppliers for body corporate entities on renting vehicles, a registered person other than LLP, proprietorship can avail 5% GST under reverse charge mechanism

8. Issuance of circulars for uniformity in application of law across all jurisdictions:

- procedure to claim refund in FORM GST RFD-01A subsequent to favourable order in appeal or any other forum;
- eligibility to file a refund application in FORM GST RFD-01A for a period and category under which a NIL refund application has already been filed; and
- clarification regarding supply of Information Technology enabled Services (ITeS services) (in supersession of Circular No. 107/26/2019-GST dated 18.07.2019) being made on own account or as intermediary.
- Clarification regarding post-sales discounts

9. Other Miscellaneous Changes

- Registered authors to be allowed the option to pay GST on royalty charged from publishers under Forward Charge and follow regular GST procedures.
- Grant of liquor license by State Governments against payment of license fee to be considered as "no supply" under GST.
- Extension of last date for filing of appeals against orders of Appellate Authority before the GST Appellate Tribunal as the Appellate Tribunals are yet not functional.
- Aerated drink manufacturers shall be excluded from composition scheme
- Suitable amendments to be made in CGST Act, UTGST Act and corresponding SGST Act as Jammu and Kashmir and Ladakh are now Union Territories.
- Linking of Aadhar to be made mandatory for Registration and Refund of claims under GST.
- Restrictions on passing credit to risky taxpayers so as to prevent issue of fake invoices and fraudulent refund claims.
- Restriction on refund of compensation cess on tobacco products (in case of inverted duty structure)

CHANGES IN GST RATES (EFFECTIVE FROM 1ST OCTOBER, 2019)

Item	Current Rate	New Rate
Hotels (Room Tariff from Rs. 1001 to Rs. 7500)	18%	12%
Hotels (Room Tariff of Rs. 7501 and more)	28%	18%
Outdoor Catering services in premises having daily tariff unit of accommodation upto Rs. 7500	18% (with ITC)	5% (without ITC)
Diamond Job work	5%	1.5%
Machine Job work	18%	12%
Plates and cups made of flowers, leaves, and bark	5%	Nil
Supplies of Railways wagons & coaches (No refund on accumulated ITC will be allowed)	5%	12%
Caffeinated Beverages	18%	28%+12% cess
Polypropylene/polyethylene woven & non-woven Bags and sacks, whether or not laminated	5%|12%|18%	12%
Almond Milk		18%
Marine fuel 0.5% (FO)	18%	5%
Wet grinders (consisting of stone as a grinder)	12%	5%
Slide fasteners	18%	12%
Dried Tamarind	5%	Nil
Semi-precious stones- cut & polished	3%	0.25%
Cess on Diesel Motor Vehicles (Capacity of 10-13 passengers)	15%	3%
Cess on Petrol Motor Vehicles (Capacity of 10-13 passengers)	15%	1%
Specified goods for petroleum operation under Hydrocarbon Exploration Licensing Policy (HELP)	–	5%

SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019

The amnesty component of the Scheme provides opportunity to taxpayers to pay specified percentage of outstanding taxes and be free of any other consequences under the law. It provides substantial relief in tax dues for all categories of cases as well as full waiver of interest, fines or penalty. It also provides for complete amnesty from prosecution.Recently, a circular has been issued for addressing some of the nagging doubts/issues that existed amongst the Trade and the Consultants/Tax practitioners which discussed as below:

1. **Declaration by ineligible person is void:** It has been clarified that ineligible persons make a declaration by selecting an incorrect response. Such declarations will be considered as void and will not be merit consideration under the Scheme.
2. **Deemed withdrawal of appeal:** It is clarified that deemed withdrawal will also be applicable for departmental appeals. Further, where a departmental appeal, reference or writ petition is pending before the Supreme Court or High Court, the department will file an application for withdrawal of such appeal.
3. **Return wise declaration:** One of the category of cases for which a declaration can be made under the Scheme is where the declarant has filed a return but not paid duty. It is clarified that a separate declaration will need to be filed for each such return.
4. **Tax Dues:** It had clarified that 'tax dues' in respect of arrears are the amount of duty which is outstanding against the declarant. This is the net amount after deducting the dues that he has already paid. Such payment may be in the form of pre-deposits appropriated or paid subsequently by the taxpayer voluntarily against the outstanding amount. It is clarified that the relief will be applied to the net outstanding amount so arrived at. It has also been clarified that in respect of all other categories, any money paid before its appropriation is in the nature of a deposit only. Hence, in respect of declarations made under these other categories, the relief will be applied to the outstanding amount and, only thereafter the pre-deposits/deposits shall be adjusted.
5. **Voluntary Disclosures:** A person is bar from making voluntary disclosure after being subjected to an enquiry or investigation or audit. It is clarified that the Designated Committee concerned may take a view on merit, taking into account the facts and circumstances of each case.
6. **Where final hearing has taken place on or before 30th June, 2019:** Cases which are under appeal/ adjudication and where final hearing has taken place on or before 30th June, 2019 are excluded from the purview of the Scheme. It is clarified that such cases, however, may still fall under the arrears category once the appellate or adjudication order, as the case may be, is passed and has attained finality or appeal period is over, and other requirements under the Scheme are fulfilled.
7. **Declaration:** It is clarified that in cases,where the taxpayer does not want to file an appeal even though the time period for filing of appeal is not over he had to file a declaration under the scheme that he will not file an appeal.

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