GST

98

TAX TALK

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Editorial...

Number of countries are passing through difficult and testing time as it is in the grip of COVID-19 virus pandemic. The way India has handled the COVID-19 situation is worth appreciating because seeing the total population and also the density of the population of our country, any outbreak might have created bigger problem!

Considering the difficulties being faced by the Importer, Exporter and GST taxpayer, amendments have been done in the Rules and Procedure to facilitate smooth and swift Customs clearance of EXIM trade as well as GST operations. Many provisions and Rules of GST have been relaxed for providing relief to taxpayer by announcing new compliance dates for GSTR 1, GSTR 3B and other GST dates like date for exercising option for composition Scheme, etc. No interest or reduced interest of 9%, No late fee and No penalty would be charged from those tax payers who comply with the law within the new dates for compliance.

Not only this, to support business continuity as India fights COVID-19, Customs have sanctioned 78,000 IGST refunds involving Rs.2,619 Crores and 1,34,000 drawback claims involving Rs.602 Crores to the exporters providing them the much needed working capital during these days of complete lockdown since 25th March, 2020. CBIC is currently engaged in expediting the sanction of pending GST and Customs refund which would provide benefits to around 1 Lakh business entities including MSME amounting to Rs.18,000 crores approximately. An advisory has also been issued on Tracking GST Refund Application Status on GST Portal and PFMS Portal. The Public Financial Management System (PFMS) of the Controller General of Accounts(CGA) has made available a central portal to track the status of bank account validation and disbursal of refund amount. By visiting the PFMS portal the taxpayer can track the status of bank account validation.

While the Government is providing number of relief to the taxpayers in this difficult times but there are various issues which still need to be addressed like credit reversal due to non-payment to supplier within 180 days, impact of non-realisation of export proceeds within specified time on refund, impact of special discounts to be given for selling existing stock to prevent write offs, expenditure incurred by Corporates through CSR for pandemic relief, tax payable on accrual basis irrespective of the fact whether payment is received or not, etc. Hope soon some relief will also be awarded in this regard. This is just an indicative list of issues that need immediate attention and further suggestions will be made depending upon the actual span of the crisis after the lockdown is undone.

Facility for filing returns by EVC was only allowed for Individuals and one person company and not for Companies or LLPs or other Entities. The option to file GSTR-3B by EVC instead of DSC is made available for all taxpayer on GSTIN portal. Tax payers can submit GSTR-3B without DSC. It appears that for other returns and documents also system will provide such facility in near future.

Recently, the GST Council and the Government have made few amendments in the law to give benefits to various stakeholders including consumers, businesses and field officers. However, there are still some concerns that are turning out to be roadblocks and not allowing the law to settle down completely like technological issue, menace of authority of advance ruling, GST appellate tribunal, anti-profiteering measures, refunds, etc.

In a recent advance ruling issued by Rajasthan GST Authority for Advance Ruling in the case of Clay Craft India Pvt. Ltd. - 2020-TIOL-64-AAR-GST had held that Directors, including Whole-time Directors, are getting remuneration from providing the service to the company. Remuneration in the form of the salary paid to them and such salary is liable to GST under reverse-charge mechanism in the hands of the Company. Remuneration paid to Directors were also covered in RCM in the Service Tax regime since 2012. The law in this matter was fully settled and everybody was complying with the provision, without much of the disputes considering the clarifications issued during that time. We wish to remind all of you that the provision in the GST regime is copy pasted from the service tax law. This AAR again open pandora's box. Even though the AAR ruling is binding only on the applicant in the present case, the ruling has created a state of uncertainty and deep concern in the industry. It is recommended that the Board issues a detailed clarification explaining the GST implications on the remuneration paid to the Directors. 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.

CA Sushil Kr Goyal

Due Date : New Compliance dates have been announced, details given in Page 2 & 3.

COMPOSITION DEALER

Government has provided the following relaxations to the taxable person who are paying taxes under Composition Scheme for Goods as well as for services:

A. **Existing Composite Dealer**

i. No need for re-opting for the composition scheme: The taxpayers who are already in composition scheme, in previous financial year are not required to opt in for composition again for FY 2020-2021.

ii. Form CMP–08 – Details of self-assessed tax for the quarter ending March, 2020 can be filed by 7th July, 2020

iii. Form GSTR-4 – Yearly return for 2019-20 can be filed by 15th July, 2020.

B. **New Composite Dealer:** For existing Normal taxpayers who want to opt for Composition Scheme in Financial Year 2020-21 following advisory has been issued:

i. Form GST CMP-02: Normal and registered taxpayers who want to opt in for Composition in FY 2020-21 can apply in Form GST CMP-02 by 30th June 2020.

ii. No GSTR-1 or GSTR-3B must be filed in 2020-21 financial year for associated PAN: The taxpayers SHOULD NOT file any GSTR-1/GSTR-3B, for any tax period of FY 2020-21, from any of the GSTIN on the associated PAN, or else they will not be able to opt for composition scheme for FY 2020-21.

iii. Form GST ITC-03: Form GST ITC-03 to reverse ITC for the stock in hand at the time of transition can be filed till 31st July, 2020.

[N. No. 30/2020-CT & 34/2020-CT, Cir. No.136/06/2020-GST]

GST RETURN - EXTENSION

Government has announced new compliance dates of filing GSTR 3B and GSTR 1 returns. The due dates have not been changed for furnishing of returns. It means if the return is filed after these compliance dates then interest, late fees and penalty will be leviable from the due date to actual date of filing of returns.

Tables below summarize the various notified dates for different class of registered persons. These dates are applicable based on the aggregate turnover in the presiding financial year and not in the current financial year. One must take care of aggregate turnover during the presiding financial because the period covered is covering two financial years.

GSTR-1 DUE DATES		
Monthly	**Due Date**	**Compliance Date**
Mar'2020	**11.4.2020**	**30.6.2020**
Apr'2020	**11.5.2020**	**30.6.2020**
May'2020	**11.6.2020**	**30.6.2020**
Jun'2020	**11.7.2020**	**No Change**
Quarterly		
Jan-Mar'2020	**30.4.2020**	**30.6.2020**
Apr-Jun'2020	**31.7.2020**	**No Change**

GENERAL EXTENSION

The time limit for any completion or compliance under GST which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 has been extended upto 30th day of June, 2020. It applies to any action to be taken by both the taxpayer as well as the tax officer under the GST law. It gives an extension for passing of order; issuance of notice, intimation or any other action by whatever name called; filing of an appeal and replying or responding to any GST notice issued before the 20th of March 2020 where such time limit expires during the period. It also extends the last date for making an application or submitting a report or a document or filing of any GST return under the GST Act, which falls due during the relief period.

Certain provisions are kept outside the general extension as discussed in next page. Some specific extensions are also as discussed below:

1. **Letter of Undertaking (LUT):** Requirement under the GST Law for furnishing of any report, document, return, statement or such other record falling during the period from 20.03.2020 to 29.06.2020,has been extended till 30.06.2020. Accordingly, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020. It has been clarified that the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.

2. **Tax Deducted at Source (TDS)/ Tax Collected at Source (TCS):** Due date for furnishing of return in FORM GSTR-7/GSTR-8 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.

3. **Refund:** Where time limit for any compliance of refund falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, in cases even where date for making an application for refund expires on 31.03.2020, such person can make an application for refund till 30.06.2020.

CREDIT RESTRICTION

In order to nudge taxpayers to timely file their statement of outward supplies (GSTR-1), restrictions on availing of the input tax credit by the recipients were imposed with effect from 9th October, 2019. Registered taxpayer can avail input tax credit which are reflected in GSTR-2A and eligible as per law. Further, in regard to invoices not uploaded by suppliers and thus not reflected in GSTR-2A of the recipient, such recipient can at maximum avail input tax credit up to 10% (20% for the period 9.10.2019 to 31.12.2019) of eligible credit as uploaded by supplier and reflected in its GSTR 2A.

This restriction on credit has been temporarily lifted to help businesses tide over tight economic conditions following the outbreak of the novel coronavirus. The condition to avail credit in excess of 10 percent of the invoices uploaded for February, 2020 to August, 2020, will have to be cumulatively adjusted in GSTR-3B for September, 2020. This would provide much needed relief to taxpayers in their cash flows, considering the possible aftermath of the unprecedented slowdown due to pandemic amid an already slow economy.

[N. No. 30/2020-CT, Cir. No.136/06/2020-GST]

NO EXTENSION OF DATES

Date for compliance are extended in all places except below mentioned provision of law, for which extension are not provided–

- Time and value of supply
- Composition dealer who became ineligible because his aggregate turnover exceeds the specified limit. If such falls between 20th day of March, 2020 to the 29th day of June, 2020, there shall be no extension for such person for switching to regular person.
- No extension to person liable to get registered within the time limits prescribed.
- No extension in time limit for registration by casual taxable person and non-resident taxable person
- No extension in time limit for issuance of Tax Invoice
- No extension shall apply in cases of arrest
- No extension in the liability of partners of firm to pay tax, interest or penalty
- No extension in case of penalty for certain offence
- Detention, seizure and release of goods and conveyances
- No extension in e-way bill provision. However, where an e-way bill has been generated under and its period of validity expires during the period 20th day of March, 2020 to 15th day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30th day of April, 2020

How to Calculate Interest > 5 cr : GSTR-3B

Due Date	Actual Date	Delay	Within Date	Interest
20.04.2020	02.05.2020	11	Yes	No Interest
20.04.2020	25.05.2020	35	Yes	0% for 15 days +9% for 20 days
20.04.2020	20.06.2020	61	Yes	0% for 15 days +9% for 46 days
20.04.2020	29.06.2020	70	No	18% for 70 days

INTER HEAD TRANSFER (PMT-09)

The electronic cash ledger contains the Major Heads viz. Central Tax (CGST); Integrated Tax (IGST); State Tax (SGST); Union Territory Tax (UTGST) and GST Compensation Cess (Cess). In each Major Head, there are Minor Heads viz. Tax, Interest, Penalty, Fee and Others.

Many a times, it happens that a taxable person makes payment towards tax, interest, etc. under a wrong head. In such cases, he was earlier compelled to make a fresh payment under a proper head and claim refund of the amount paid in the wrong head. To obviate the difficulties of the taxpayers in this regard, a provision was inserted in the CGST Act 2017. Sub-section (10) and (11) were inserted in the Section 49 of CGST Act 2017 by the CGST Amendment Act 2019 w.e.f. 1st Jan 2020 and Sub-rule (13) was inserted in the Rule 87 of the CGST Rules 2017 w.e.f. 21st April 2020. Text of the Rule 87(13) as provided below:

A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09.

However, considering the delay on part of the GSTN Portal to make this functionality available, rule was not given effect till date

Now, Form PMT-09 has been enabled on GSTN Portal on 21st April, 2020 which allows transfer of any amount of tax, interest, penalty, fee or others, under one (major or minor) head to another (major or minor) head, as available in the Electronic Cash Ledger. This development is greeted by all with enthusiasm as the taxpayer will not have to go through the detailed procedure of claiming refund or number of times, they had to pay money again even they were having balance in the cash ledger but in different major or minor head.

It is important to note that if the wrong paid tax has already been utilized for making any payment, then this challan is not useful. This challan only allows shifting of the amounts that are available in the electronic cash ledger.

GSTR-3B Compliance Date

Turnover		≤ 1.5 cr	>1.5 cr but ≤ 5 cr	> 5 cr	
Month	Due date	No Interest	No Interest	No Interest	9% Interest
Feb'2020	20/22/24.03.2020	30.06.2020	29.06.2020	04.04.2020	24.06.2020
Mar'2020	20/22/24.04.2020	03.07.2020	29.06.2020	05.05.2020	24.06.2020
April'2020	20/22/24.05.2020	06.07.2020	30.06.2020	04.06.2020	24.06.2020
GSTR-3B Date extension					
May'2020	20/22/24.06.2020	12/ 14.07.2020	12/ 14.07.2020	27.06.2020	N.A.

CANCELLATION OF SERVICES/ RETURN OF GOODS

CBEC had clarified that in the following cases the taxpayer can apply for refund of GST paid by filing FORM GST RFD-01 under the category “Refund of excess payment of tax”. It has brought a sigh of relief for all amidst and atmosphere of uncertainty.

GST paid by a supplier on the advance received for a Service contract which got subsequently cancelled:

Two situation arises:

a) Supplier may have issued a tax invoice for the entire transaction value before the service was provided and deposited the GST amount with the department. Now, the contract for service got cancelled, he must issue a credit note declared in GSTR-1 of the month in which the credit note was issued and adjusted in GSTR-3B subject to the conditions of Section 34 of the CGST Act, 2017. There is no need to file a separate refund claim if adjusted with output liability. If there is no sufficient outward tax liability in GSTR-3B against which the credit note can be adjusted, in such case, Form RFD-01 can be filed to claim this GST by selecting "Excess Payment of Tax", or

b) The supplier may have issued a receipt voucher acknowledging the advance amount received by him, for which no invoice has been issued in terms of section 31 (2) of the CGST Act. He would have also deposited the GST amount with the department. In such a case, after the contract gets cancelled, , he is required to issue a “refund voucher” in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules. As he has issued a refund voucher to the recipient for rules for negating the transaction effect. Subsequently, he can claim the GST refund by filing form RFD-01 under the category “Excess Payment of Tax”.

Goods supplied by a supplier under cover of a tax invoice are returned by the recipient:

As the supplier has issued tax invoice at the time of supply, which are now returned by the purchaser. Supplier must issue a credit note , declare the same in GSTR-1 and GSTR-3B of the relevant month in which the credit note was issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case. In case adjustment of tax amount as per credit note is not possible in GSTR-3B shall be claimed as a refund in Form RFD-01 by choosing the category as “Excess Payment of Tax”.

BOOK POST

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