GST TAX TALK 103

A Monthly Goods & Services Tax Bulletin

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Editorial...

Wishing all our readers Shubho Vijaya and Happy Dussehra!! Covid-19 pandemic also effected the celebration this year. On a positive note, we can say it brought a unique opportunity for all of us to celebrate at home with our family members and spend some quality time with them. The festivity has also brought economy on track to a large extent. As per the filing trend of GST returns in October, the indirect tax collection "could be in excess of ₹ 1 lakh crore," officials are expecting so. That's going by filing through GST form number 3B (GSTR-3B), a monthly return form and the last date for filing return is 20th of every month.

The 42nd GST Council met under the Chairmanship of Union Finance through video conferencing. The meeting was also attended by Union Minister of State for Finance besides Finance Ministers of States and senior officers of the Ministry of Finance and States, where it was decided that the levy of Compensation Cess to be extended beyond the transition period of five years i.e. beyond June, 2022, for such period as may be required to meet the revenue gap. The period up to which it will be extended was not decided in the meeting. It is also informed in the meeting that Centre is releasing compensation of ₹ 20,000 crore to States towards loss of revenue during 2020-21 and an amount of about ₹ 25,000 crore towards IGST of 2017-18 by next week. Hope this will ease out the tension prevailing between the states and centre.

Physical copy of tax invoice is no more mandatory to be carried by the in charge of the vehicle, where E-invoice is issued with the Quick Reference (QR) code, embedded Invoice Reference Number (IRN) in it and if same has been produced electronically, for verification by the proper officer with effect from 1st October 2020 for businesses with turnover of ₹.500 crore or more issuing E-invoice.

In order to reduce pressure on the GST Portal, any person who wishes to submit NIL GSTR-1 and GSTR-3B, can submit through SMS and is not required to login on the GST Portal. Now, this facility is extended to the person who wishes to file NIL CMP-08, can also submit through SMS. The facility of filing NIL statement on the GST portal will remain available to the taxpayers. As per GSTN statistics, a total of 17.11 lakh taxpayers have opted for the Composition Scheme, out of which about 20% (3.5 lakh) taxpayers who file NIL statement, would be benefited from this facility. Number of steps are being taken to reduce the pressure on GST Portal, but it seems something more is still required to be done for smooth functioning of the Portal.

A further step towards reducing the compliance burden particularly on the small taxpayers having aggregate annual turnover < ₹. 5 crore, the Council has approved recommendation of allowing filing of returns on a quarterly basis with monthly payments by such taxpayers. Detail of the same are discussed on page 2.

The Input Tax Credit is now governed by Rule 36(4) of CGST Rules and considering the difficulties faced by the taxpayer due to implication of this rule, it was decided to keep it in abeyance for the months of February, 2020 to August, 2020. This was done keeping in view the situation prevailing due to spread of COVID-19 pandemic causing disruption in business. It was also mentioned that it shall apply cumulatively in GSTR-3B for the tax period September 2020 and shall be furnished with the cumulative adjustment of input tax credit for the said months. To ensure uniformity in the implementation of the said provisions across the field formations, the board has issued a detail circular explaining the procedure for the September return. Detail discussion on the same is provided on page 2.

The requirement of HSN code in case of goods and SAC in case of services are modified. The assessee whose average turnover of higher than ₹. 5 Crores, HSN code needs to be written at a 6-digit level while HSN code to be mentioned at a 4-digit level for those whose average turnover is less than ₹. 5 Crores executing B2B supplies. Moreover, 8 digits required to be mentioned for classes of supplies are not announced so far and is expected to be announced soon.

We are having detailed discussion on the number of notifications issued during the period and other development took place in the field of GST on page 2, 3, and 4 of the 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.

CA Sushil Kr Goyal

Normal dates for returns are falling in the month of November 2020. Be ready !

RULE 36(4) - COVID IMPACT

The Input Tax Credit (ITC) is restricted by Rule 36(4) of CGST Rules,2017 and considering the difficulties would be faced by the taxpayer in implementation of this rule during COVID time due to disruption in business, it was decided to keep it in abeyance for the month February,2020 to August, 2020 and shall apply cumulatively in GSTR-3B for the month September,2020. The assessee is expected to furnished return with the cumulative adjustment of ITC as per Rule 36(4) for the these months.

It is pertinent to note that earlier Circular No.123/42/2019–GST dated 11th November,2019, clarified various issues like no restriction is placed on portal or it should be done on self-compliance basis by the assessee, relating to implementation of 110% of eligible Credit as per GSTR-2A (120% during the period October,2019 to December,2019) relating to availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1.

The board has issued a detail circular explaining the procedure for the September'2020 return GSTR-3B, related to cumulative application of Rule 36(4). It is to note that keeping the situation prevailing due to lockdown and now unlock due to the spread of COVID-19 pandemic and all the stake holders have to comply with the condition as per the rule, regarding, whcih will apply cumulatively for the tax period February, March, April, May, June, July and August, 2020 in the return FORM GSTR-3B for the tax period September, 2020. How to apply the cumulative adjustment of input tax credit for the said months in the September' 2020 has been clarified recently vide Circular No.142/12/2020-GST dated 9th October, 2020 clarifies issues in claiming ITC. The Circular once again mentioned that all other provision will apply as it was announced earlier, except cumulative compliance of 110% Credit. Accordingly it is advised to ascertain the details of invoices uploaded by their suppliers for the periods of February, March, April, May, June, July and August,2020, till the due date of furnishing of the statement in FORM GSTR-1 for the month of September,2020 as reflected in GSTR-2As.

Taxpayers shall reconcile the ITC availed in their FORM GSTR-3Bs for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said months, till the due date of furnishing FORM GSTR-1 for the month of September, 2020. The cumulative amount of ITC availed for the said months in FORM GSTR-3B should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1, till the due date of furnishing of the statements in FORM GSTR-1 for the month of September, 2020.

It may be noted that availability of 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1 does not mean that the total credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of section 16 of the CGST Act.

The excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of FORM GSTR-3B, for the month of September,2020. Failure to reverse such excess availed ITC on account of cumulative application of 110% Credit as per GSTR-2A would be treated as availment of ineligible ITC during the month of September, 2020.

The manner of cumulative reconciliation for the said months in terms of 110% Credit as per GST-2A is explained by way of illustration, in a tabulated form in, below:

Tax Period	Eligible ITC	ITC Availed	Form 2A	110%
Feb,2020	300	300	270	297
March,2020	400	400	380	418
April,2020	500	500	450	495
May,2020	350	350	320	352
June,2020	450	450	400	440
July,2020	550	550	400	440
August,2020	200	200	150	165
TOTAL	2750	2750	2370	2607
September,2020	500	N.A.	350	385

Maximum eligible ITC in term of 110% Credit is ₹ 2370 + [10% of 2370] = ₹ 2607. Taxpayer had availed ITC of ₹ 2750. Therefore, ITC of ₹ 143 [2750-2607] would be required to be reversed. And 10% Rule shall apply independently for September,2020. In the GSTR-3B for the month of September 2020, the tax payer would reverse ITC of ₹ 143 as per above Table. Let us discuss another situation by way of illustration :

Tax Period	Eligible ITC	ITC Availed	Form 2A	110 %
Feb,2020	300	300	270	297
March,2020	400	400	380	418
April,2020	500	500	450	495
May,2020	350	350	320	352
June,2020	450	450	400	440
July,2020	550	550	480	528
August,2020	200	200	150	165
TOTAL	2750	2750	2450	2695
September,2020	500	385	350	385

Maximum eligible ITC in term of 110% Credit is ₹2450 + [10% of 2450] = ₹ 2695. Taxpayer had availed ITC of ₹ 2750. Therefore, ITC of ₹ 55 [2750-2695] would be required to be reversed. And 10% Rule shall apply independently for September,2020. In the FORM GSTR-3B for the month of September 2020, the tax payer shall avail ITC ₹ 385 and would reverse ITC of ₹ 55 above Table.

It is important to note that under no circumstances one can take more than the eligible amount. Credit is available higher of eligible amount or 110% of credit appearing in GSTR-2A. If it is less than eligible amount, credit of 110% can be taken till the eligible credit figure is achieved. So, one should keep track of figure related to particular tax period.

GSTR-4 Relaxation

GSTR-4 is a GST Return that has to be filed by a composition dealer for the financial year 2017-18 and 2018-19. It was a quarterly return during these initial years. Now for the financial year 2019-20 and onwards it is to be filed annually. The quarterly statement to be filed in CMP-08 for the financial year 2019-20 onwards by these dealers. It is also to be noted that the provision of filing quarterly statement in CMP-08 and annually GSTR-4 not only applicable for the dealer of the goods opted for the composition, it also covers the 6% service provider composition scheme , they are also required to file these forms.

The CBIC has extended the due date GSTR-4 (Annual Return) for the financial year 2019–20 number of time time and presently it stand extended up to 31st October 2020 vide the notification 64/2020-Central tax dated 31st August 2020.

The CBIC has also waived/reduced the late fees for GSTR-4 (Quarterly) for the financial year 2017-18 and 2018-19 (July 2017 to March 2019). CBIC has waived any late fees which is in excess of ₹ 500/- (₹ 250/- for CGST and ₹ 250/- for SGST) and full late fees (Nil) where the total amount of central tax payable in the said return is nil for the registered persons who failed to furnish the return by the due date but furnishes the said return between the period from 22nd September, 2020 to 31st day of October, 2020. vide notification 67/2020-Central tax dated 21st September 2020.

HSN CODE

A tax invoice is an invoice sent by the registered dealer to the purchaser showing the amount of tax payable. It includes the description, quantity, value of goods and services and the tax charged. It also requires HSN code. HSN stands for "Harmonized system of Nomenclature". Presently Government had notified the number of HSN code to be mentioned in the tax invoice as below:

Serial No.	Annual Turnover in the preceding Financial Year	No of digits of HSN Code
1	Upto rupees one crore fifty lakhs	Nil
2	More than rupees one crore fifty lakhs and upto five crore.	2
3	More than rupees five crore	4

Government had notified the number of HSN code to be mentioned in the tax invoice w.e.f.1st April,2021 and relaxation to B2C supply vide notification no- 78/2020- Central tax dated 15th October 2020

Serial No.	Annual Turnover in the preceeding Financial Year	No. of digits of HSN Code
1	Upto five crore	4
2	More then five crore	6

A registered person having aggregate turnover ≤ ₹ 500 crores in the previous financial year may not mention the number of digits of HSN Code, as specified above in respect of B2C supplies.

EWB Blocking

The E Waybill generation facility of a person will be restricted, in case any person fails to file their GSTR-3B returns, for a consecutive period of two months or more,

up to the month of tax period of August,2020, The EWB generation facility for such GSTINs (whether as consignor or consignee or by transporter) will be blocked on EWB Portal after 15th October, 2020.

It is advisable to file pending GSTR 3B returns immediately to avail continuous EWB generation facility on EWB Portal.

Exemption

Exemption to transportation services as covered in the serial number 19A and 19B of Notification No.12/2017-CTR dated 28th June 2017 have been inserted w.e.f. 25th January 2018 vide Notification No. 2/2018- CTR dated 25th January 2018.

19A -Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India

19B -Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India

These entries provide exemption to outward transportation of all goods by air and sea. These exemption entry are inserted with expiry date means it has been provided with date up to which the same will exempted.

The exemption have been again extended by one year and the transportation service will be exempted up to 30th September 2021 vide Notification No.04/2020-CTR dated 30th September 2020. The exemption is providing relief in respect of GST amount on Air/ Sea Transport charges to the exporters.

CMP-08 through SMS

Form GST CMP-08 is a special return form/statement that is used by the 'specified persons' to fill the summary/details of their self-assessed liability or self-assessed tax for any given quarter.

Form CMP-08 can be filed as a nil statement if there are no outward supplies, any liability due to reverse charge (including import of services) and any other tax liability for the quarter, for which the statement is being filed. One can file Nil Form CMP-08 on quarterly basis and its due date is 18th of the month succeeding the quarter. For example, Nil Form CMP-08 for the quarter of July 20 to September 20 can be filed from 1st October onwards.

Now, Nil Form CMP-08 can also be through SMS, instead of filing it through online mode on GST Portal. All the authorized representatives, for a particular GSTIN, are allowed to file Nil Form CMP-08 through SMS.

Proposed changes in Return System

Some prime judgement has been made in the recent GST council meeting related to monthly payment and quarterly return filing. But before knowing that let us cast some light on the returns and current return filing system: -

GSTR-1 is a return form for the regular taxpayers who have to file details of outward supplies on every 11th of the next month for those who cross the turnover more than 1.5 crores annually. The taxpayers who doesn't exceed the threshold limit of 1.5 crores are required to file return on quarterly basis.

GSTR-2A is a purchase-related ITC statement that is automatically generated for each business by the GST portal. When a seller files his GSTR-1, the information is captured in GSTR-2A. It takes information of goods and/or services which have been purchased in each month from the seller's GSTR-1.

GSTR-3B is a simple summary return that all normal taxpayers' file monthly where they disclose their GST liability for the tax period. The due date for submission of GSTR-3B is the 20th or 22nd /24th of the succeeding month.

As per the discussion held with the GST council it has been decided that the present GSTR-1/3B return filing system to be extended till 31.03.2021 and the GST laws to be amended to make the GSTR-1/3B return filing system as the default return filing system.

With a view to further enhance the ease of doing business and reduce the compliance burden. The following roadmap for auto-generation of GSTR-3B from GSTR-1 has been announced:

1) From 1st January 2021

- Due date of furnishing quarterly GSTR-1 by quarterly taxpayers to be revised to 13th of the month succeeding the quarter;
- Auto-population of GST liability from own GSTR-1;
- Auto-population of input tax credit from suppliers' GSTR-1s through the newly developed facility in FORM GSTR-2B for monthly filers.

2) From 1st April 2021

- In order to ensure auto population of ITC and liability in GSTR-3B as detailed above, FORM GSTR-1 would be mandatorily required to be filed before FORM GSTR-3B.
- Auto-population of input tax credit from suppliers' GSTR-1s through the newly developed facility in FORM GSTR-2B for quarterly filers of GSTR-1.

3) Minimization in compliance burden for small taxpayers. As a further step towards reducing the compliance burden particularly on the small taxpayers is to be implemented

- Small taxpayers having aggregate annual turnover < ₹. 5 crores. will be provided with the facility to file returns on a quarterly basis.
- Taxpayer can file Quarterly return with monthly payments
- Such quarterly taxpayers would, for the first two months of the quarter, have an option to pay 35% of the net cash tax liability of the last quarter using an auto generated challan.

BOOK POST

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