GST 107

TAX TALK

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Editorial...

Hon'ble Finance Minister Smt. Nirmala Sitharaman has placed her third budget "The Union Budget 2021" after taking charge of the Finance Ministry. This Budget is the first of this new decade 2021-2030. This time budget printing was not undertaken and therefore it is declared that, this Budget is first ever "Digital Budget" in the history of our country.

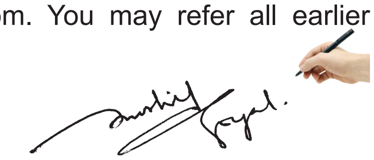
There is no such taste of simplifications found in the Budget for GST as assured by the Hon'ble Finance Minister in her speech. Rather, we feel now trade and industry needs to be more cautious and alert, for future and upcoming GST Compliances. These are rather restricting the benefits available to the taxpayers or require more working capital.

The Finance Bill 2021 carries good number of amendments in GST, such as allowability of ITC only if it is uploaded by supplier which will validate rule 36(4), E-way Bill penalty increased to 200%, Supply to SEZ will be treated as Zero Rated only if it is used for Authorised Operation, Limited applicability of Export on Payment of Tax, Compulsorily realization of export proceeds within time limit for Refund, Self-Certified Reconciliation Statement rather certification by CA/CMA. The ground provided for self-certification are base-less because if we apply that analogy tomorrow, government may remove all security checks in the country as the same won't yield any revenue to the government. Amendments so introduced by the government will adversely affect the trade and business sector. We strongly urge the people at the decision-making level to reconsider this amendment before it is carried out.

Surpassing the first month of the much-awaited year 2021 with spectacular GST inflow of Rs. 1.19 lakh crore almost touching Rs. 1.20 lakh crore mark, even exceeding last month's record collection of Rs. 1.15 lakh crore, it can be said that this was indeed a pre-eminent start for this year. The collection touched an all-time high record since the introduction of GST regime. GSTN has witnessed about 90 lakh GSTR-3B filing for the month of December, 2020 upto January 31, 2021. In line with the trend of recovery in collection, the GST revenues for the month of January, 2021 are 8% higher than the GST revenues in the same month last year, which in itself was more than Rs. 1.10 lakh crores. The consistent collections of over Rs 1 lakh crore for the last four months and a steep increasing trend over January were clear indicators of rapid economic recovery after 2020 proved to be devastating year for the people in terms of both emotional & economic well-being.

GSTN has made available the new Invoice Furnishing Facility (IFF) process on the Goods and Services Tax (GST) Portal. The quarterly GSTR-1 filers can opt to upload the invoices relating to outward supplies made to registered person through the Invoice furnishing facility (IFF). A person has the option to file the information of the outward supplies through the Invoice Furnishing Facility (IFF) to an enrolled person for both the 1st and 2nd months of the respective quarter. Detailed discussion has been made in page 2.

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 view at gst@goyalstax.com. You may refer all earlier



CA Sushil Kr Goyal

DUE DATES

Category of Taxpayer	Return	Period	Due date
Person required to deduct TDS	GSTR-7	January, 2021	10th February, 2021
Person required to deduct TCS	GSTR-8	January, 2021	10th February, 2021
Regular Taxpayer (Monthly)	GSTR-1	January, 2021	11th February, 2021
Person in QRMP Scheme	IFF	January, 2021	13th February, 2021
Monthly ISD Return	GSTR-6	January, 2021	13th February, 2021
Monthly GST Return	GSTR-3B	January, 2021	20th, 22nd, 24th February, 2021
Monthly GST Payment under QRMP Scheme	PMT-06	January, 2021	25th February, 2021

Invoice Furnishing Facility

Q1 What is Invoice Furnishing Facility (IFF) and who can avail the benefit of IFF?

Ans. The Invoice Furnishing Facility (IFF) has been provided to the taxpayers, who are under QRMP Scheme (Quarterly filers of Form GSTR-1 and also of Form GSTR-3B returns). As per sub-rule (2) of Rule 59 of the CGST Rules, 2017, taxpayers who have opted for quarterly filing frequency under the scheme can file their details of outward supplies made to a registered person for the first two months of a quarter (M1 and M2 respectively of a Quarter) in IFF. For instance, for April-June quarter, invoices relating to supplies made to registered person only for the months of April (M1) and May (M2) can be filed in IFF by a taxpayer. The said details of outward supplies shall, however, not exceed the value of fifty lakh rupees for a particular month. The details furnished in IFF shall be duly reflected in the Form GSTR-2A, GSTR-2B, GSTR-4A or GSTR-6A of the concerned recipient.

Q2 What details are to be submitted in the Invoice Furnishing Facility?

Ans. The details which are required to be submitted in IFF is just similar to details which were required in Form GSTR-1 and it also enables to file the details of B2B invoices in the mentioned tables only:

a) 4A, 4B, 4C, 6B, 6C – B2B Invoices
b) 9B – Credit / Debit Notes (Registered) – CDNR
c) 9A – Amended B2B Invoice – B2BA
d) 9C – Amended Credit/ Debit Notes (Registered) – CDNRA

Q3 What is the time frame for filing of details through IFF?

Ans. The last date upto which the option to upload the information relating to outward supplies in IFF can be claimed is 13th of the succeeding month. There is no requirement to upload invoices in GSTR-1 if the same has been uploaded through IFF. However, if a taxpayer does not upload invoice details through the IFF, he/she has to upload all the invoice details for the three months of the quarter in the GSTR-1 return upto 13th of the succeeding month ending the respective quarter.

Q4 What is the purpose of Invoice Furnishing Facility?

Ans. The taxpayers whose aggregate turnover is upto Rs. 5 crores in the preceding financial year can opt for QRMP Scheme and opt to file their GSTR-1 on quarterly basis. This is introduced to reduce the compliance burden on small taxpayers. However, this creates complications for taxpayers who make purchases from small taxpayers in claiming Input Tax Credit (ITC). For example, when a buyer purchases goods from a small taxpayer during a quarter, the buyer has to wait until the end of the quarter to claim ITC. The reason for the same is that a small taxpayer can upload the invoices and complete the GSTR-1 filing only after the quarter is completed. This process caused a delay in claiming ITC as the buyer can claim full ITC only when the invoice appears in his/her GSTR-2A/2B.

Hence, the IFF has been introduced to remove these hardships as now small taxpayers can also furnish details of supplies made to registered person on monthly basis using the Invoice Furnishing Facility and help the buyers purchasing goods or availing services from small taxpayers in claiming ITC.

Q5 What are the advantages of using the Invoice Furnishing Facility?

Ans. The introduction of IFF is a good move by the Board which will benefit both the small taxpayers as well as buyers from small taxpayers. This facility will indirectly help small taxpayers to enhance their business by providing faster ITC claims to their buyers. However, this might result in increasing compliance costs for them. Hence, one has to make a comparison between the benefit of opting for IFF and the cost involved. The following are the advantages of IFF:

- Buyers of goods or services from small taxpayers can claim ITC every month.
- It allows the monthly reconciliation of data and makes return filing easier.
- Small taxpayers can increase their business by providing faster ITC claims.
- Eases the compliance burden by reducing the volume of invoices to be uploaded at the end of the quarter.

Declaration of HSN Code

The Central Board of Indirect Taxes and Customs (CBIC), had notified the number of digits of HSN Code to be mentioned by a registered person in a tax invoice issued by him vide Notification No. 12/2017 - Central Tax dated 28th June 2017. The Board has now made amendment in the same vide Notification No. 78/2020 - Central Tax dated 15th October, 2020 with effect from April 01, 2021, which is summarized below:

Sl. No.	Aggregate Turnover in the preceeding Financial Year	Number of Digits of HSN Code
1.	Up to Rs. 5 crores	4
2.	More than Rs. 5 crores	6

The GST rates on supply of goods are charged according to their HSN Code. The main purpose of HSN is to classify goods from all over the world in a systematic and logical manner. This brings in a uniform classification of goods and facilitates international trade.

However, where a registered person having turnover upto Rs. 5 crores in the preceding financial year makes supplies to unregistered person, he/she may not mention the HSN code as specified above in the tax invoice issued by him.

Aadhar Authentication/E-KYC (Existing Taxpayer)

Functionality for Aadhaar Authentication and e-KYC where Aadhaar is not available, has been deployed on GST Common Portal with effect from 6th January, 2021, for existing taxpayers. All taxpayers registered as Regular Taxpayers (including Casual Taxable person, SEZ Units/Developers), Input Service Distributors and Composition Taxpayers are required to get their Aadhaar Authentication or e-KYC on GST Portal. However, Government Departments, Public Sector Undertakings, Local Authorities and Statutory Bodies are not required for any Aadhaar authentication or e-KYC.

If Aadhaar is available, the Primary Authorized signatory and 1 person who is Proprietor/Partner/Director/Managing Partner/Karta of the entity registered can go for the Aadhaar Authentication. In absence of Aadhaar, they can upload any of the following documents to undergo e-KYC:

- Aadhaar Enrolment Number
- Passport
- Electors Photo Identity Card (Voter ID Card)
- KYC Form
- Certificate issued by Competent Authority
- Others

Budget 2021 Highlights - GST

Input Tax Credit

Earlier, the conditions for determining the eligibility of input tax credit under sub-section (2) of section 16 of the CGST Act, 2017 did not include the requirement of furnishing the details of the invoice relating to outward supply by the supplier in GSTR-1 and the consequent communication to the recipient.

A new clause (aa) to sub-section (2) of the section 16 of the CGST Act, 2017 is sought to be inserted to provide that input tax credit on invoice or debit note shall be availed only when the details of such invoice or debit note has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.

Thus, one more condition is added for determining the eligibility of input tax credit. ITC would not be available to the recipient in respect of a particular invoice or debit note if the details of such invoice or debit note has not been furnished by the supplier in GSTR-1 or using Invoice Furnishing Facility (IFF).

Clubs/Associations

It has been proposed to insert the following new clause (aa), in sub-section (1) of section 7, "Scope of Supply"of the CGST Act, 2017.

"(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration."

Clause (aa) is sought to be inserted so as to expand the scope of supply to ensure that levy of tax on activities or transactions involving the supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. For this purpose, supplier and the recipient shall be deemed as two separate persons. The same is proposed to be retrospectively applied from 1st July, 2017. Consequent to the proposed amendment in section 7 of the CGST Act, para 7 of Schedule II to the CGST Act shall be omitted retrospectively with effect from the 1st July, 2017.

Annual Return & Reconciliation Statement

It has been proposed to omit sub-section (5) of section 35 of the CGST Act, 2017. Section 35(5) conveys that every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts.

Section 44 of the CGST Act, 2017 has been proposed to substitute the previous section so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. The amended section 44 reads as, "*Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically*". It further provides for the Commissioner to exempt a class of taxpayers from the requirement of filing of annual return.

In other words, Reconciliation Statements will require self-certification in place of certification by a qualified CA or CMA.

Interest

Section 50 of the CGST Act, 2017, "Interest on delayed payment of tax" is sought to be amended, retrospectively with effect from 1st of July, 2017, to substitute the proviso to sub-section (1) so as to charge interest only on the portion of the tax which has been paid by debiting the electronic cash ledger.

Despite the 39th GST Council's recommendation in place with regard to imposing interest liability retrospectively on net tax liability, the government still chose to appoint 01.09.2020 as the date when proviso to Section 50(1) of the CGST Act was made effective. Though, press release and instructions were issued to clarify for recovery of interest on net cash tax liability with effect from 01.07.2017, but still litigations were seen. With this retrospective amendment, the issue will now finally settle.

Seizure and confiscation of goods and conveyances in transit

Section 74 of the CGST Act, "Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful misstatement or suppression of facts" is sought to be amended so as to make seizure and confiscation of goods and conveyances in transit a separate proceeding from Recovery of Tax.

Section 74 deals with non-payment of tax on account of fraud, suppression of facts or any willful misstatement. Earlier, the explanation to section 74 was understood as if the notice under section 74 is issued to the main person liable to pay tax and some other persons, and where such proceedings against the main person have been concluded under section 73 or section 74, then the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

After this amendment, proceedings under section 129 and section 130 relating to Detention and Confiscation of goods or conveyance shall continue, even if the proceedings under section 73 or section 74 against the main person is concluded.

It has also been proposed to delink the proceedings relating to detention, seizure and release of goods and conveyances in transit from the proceedings relating to confiscation of goods or conveyances. Further the quantum of penalty under section 129 has been doubled to 200% of the tax payable where the owner of the goods comes forward for payment of such penalty.

Self-Assessed Tax

A new Explanation has been proposed to be inserted in sub-section (12) of section 75 which states that "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished, but not in the return furnished in accordance with section 39.

Earlier, there was a confusion as to whether SCN needs to be issued to recover the tax if the taxpayer declares his tax liability in GSTR-1 but failed to pay in GSTR-3B. With this insertion of explanation, it has now become clear that such tax liability can straightaway be recovered in accordance with the provisions of section 79, "Recovery of Tax".

Consequent to this amendment, it has been clarified that the liability declared in GSTR 1 but not included in GSTR 3B will be considered as "self-assessed tax" thereby permitting commencement of recovery proceedings without following the process of adjudication.

Deposit of fees for Advance ruling or an Appeal

New functionality has been introduced with respect to Advance Ruling or an Appeal. As we are aware that while filing an application for Advance Ruling, it shall be accompanied by a fee of Rs. 5,000 which is to be deposited online by the applicant in the manner specified under section 49 of the CGST Act and for filing Appeal deposit fees is to be submitted as per the relevant section.

Earlier, only the SGST payment tab was enabled and the GST system did not allow Fee (Minor head) to be paid while filing Appeal before Appellate Authority for Advance Ruling under CGST or IGST head (Major Head). For all kind of taxpayers (except OIDAR), CGST or IGST payment tabs are enabled along with SGST while filing an application for Advance Ruling. For an OIDAR taxpayer, only IGST payment tab would be enabled by default and would be non-editable. The respective amount to be paid will be auto calculated based on selection of SGST/CGST/IGST heads, as the case may be.

Now, deposit in cash ledger screen minor head Fee will be auto populated based on Appeal against the Advance Ruling option selection. Appeal application with any combination i.e., SGST/CGST/IGST shall be allowed for submission of Fee.

Further, under the column 'Verification' once the applicant chooses the "Name of the Authorized Signatory" from the drop down, details of the Authorized Signatory including Father's name etc. shall be auto populated.

Authentication through EVC

Earlier, returns filed for any taxpayer by Goods and Services Tax Suvidha Providers (GSPs) were accepted on the GST Portal, only if the same were authenticated through Digital Signature (DSC) by GSPs. The functionality of authentication of the returns through Electronic Verification Code (EVC) by the GSPs has been enabled on the GST Portal. This shall be applicable only for those taxpayers who have been provided a facility to file their return through EVC on the GST Portal. Thus, DSC is required to be used by GSPs only if the taxpayers are required to file their returns on GST Portal through DSC, otherwise GSPs can now file return through EVC for other taxpayers.

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