Tax Talk

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A Monthly Goods & Services Tax Bulletin

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Editorial...

Happy Basant Panchami!! to all my dear ones, may the goddess of wisdom, knowledge and purity, bestow her blessings on everyone. The word "basant" itself welcomes the spring season with bright yellow colors signifying the brilliance of nature and vibrancy of life. May the vibe of this beautiful season brings positivity in our life.

Hon'ble Finance Minister Smt. Nirmala Sitharaman on 1st February, 2022 presented her 4th Budget speech by expressing empathy for those who suffered during COVID-19 pandemic. Creation of jobs, a push for digital education, focus on mental health wellbeing and preparations for new-age technologies such as blockchain and 5G services were among the highlights of Budget 2022. Many people were disappointed by this budget as no such relief was provided to the MSME sector.

The gross GST collection in the first month of the new year set the remark of the highest GST collection since the inception of GST. Collection of GST in the Month of January'22 crossed Rs1.4 trillion, which is a record-breaking number till date. While comparing the collection with prior two years, i.e.,with January'21 and January'20. A growth of 15% and 25% in GST collection respectively is evident. Not only this, recovery against tax evasion, stringent provisions against fake-billers etc. plays an important role in setting the highest remark of GST collection. Also, various rate rationalization measures taken by the Council to correct Inverted Duty Structure has provided relief to taxpayers.

While presenting Finance Bill, 2022, various changes were proposed under the Indirect Tax regime, primarily under GST Laws which will be notified on later date by the officials. With the roll-out of Significant due dates in the upcoming months, everyone should be updated with the changes made thereout in GST as well.

Whenever we discuss about GST, the major part which effects the working capital of the business whether small or big business, is 'Input Tax Credit'. Now, ITC can be claimed till 30th November which is a slight relief for the taxpayers but to cover up the same, further restrictions are also imposed upon the taxpayers to claim the ITC in GSTR – 3B which is discussed in Page 2.

Along with the changes discussed above, now 30th November will take the place as an important date for the GST filers, as the last date for various provisions such as issuance of credit note, correction in GSTR -1/GSTR -3B, availment of ITC etc. are extended till 30th November of the next financial year from 30th September. To ease the process of doing business, two-way communication in filing GST returns is scrapped, also, provisions regarding refund are to be made simpler. Detailed discussion of such the proposed changes brought under GST laws vide the Union Budget'22 is made in Page 2,3 and 4 thereon.

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 skgoyal@icai.org. You may refer all earlier issues of Tax Talk on my Facebook Wall.

CA Sushil K Goyal

DUE DATES

Category of Taxpayer	Return	Period	Due date
Person required to deduct TDS/ Collect TCS	GSTR-7/GSTR-8	January, 2022	10th February, 2022
Regular Taxpayer (Monthly)	GSTR-1	January, 2022	11th February, 2022
Taxpayer in QRMP Scheme	IFF	January, 2022	13th February, 2022
Monthly ISD Return	GSTR-6	January, 2022	13th February, 2022
Monthly GST Return	GSTR-3B	January, 2022	20th February, 2022
Monthly GST Payment under QRMP Scheme	GST PMT-06	January, 2022	25th February, 2022

Time limit for claiming ITC

Any registered person can claim Input Tax Credit (ITC) on the fulfilment of certain conditions like possession of a tax invoice or debit note, receipt of goods and/or services, etct. No ITC will be allowed if depreciation has been claimed on the tax component of a capital good.

The time limit to claim ITC against an Invoice or Debit Note currently is earlier of following dates: The due date of filing GSTR-3B for September of next financial year or Date of filing the Annual Return relevant for that financial year. It has been now extended till 30th November of next financial year.

The revised time limit for claiming ITC will now be earlier of "thirtieth day of November" of next financial year or furnishing of the relevant Annual Return, whichever is earlier.

Restrictions - ITC Availment

The two-way communication process under GSTR-2A is now substituted with a new heading 'Communication of details of inward supplies and input tax credit'has been inserted.The summary of the amended section is as follows:

1) Details of GSTR-1 filed / IFF furnished by the supplier would be available to the recipient electronically in an auto generated statement i.e., GSTR-2B.
2) GSTR-2B will consist of two parts–Details of Inward Supplies on which ITC will be available to the recipients and Details of Inward Supplies on which ITC not available to the recipient, either partially or wholly.
3) The following shall be the reasons for classifying the ITC as "Not Available" in the hands of the recipient;
   a) Details of supplies furnished by the registered person within such period of taking registration as may be prescribed;
   b) Supplier has defaulted in payment of tax and the default has continued for the prescribed time period;
   c) Tax paid in GSTR-3B is lower than the output tax shown in GSTR-1 and such difference exceeds prescribed limit;
   d) Inward supply is received from a supplier who has taken more ITC in GSTR-3B than the ITC available in the suppliers GSTR-2B and such difference exceeds the prescribed time limit;
   e) Supplier has paid higher proportion of taxes from his electronic credit ledger than what is allowed as per law;
   f) Such other class of person as may be prescribed.

Non-Resident Taxable Person

The due date of filing GST Return for registered non-resident taxable person i.e., GSTR-5 has been reduced to 13th day of succeeding month from 20th day of the succeeding month.

A "Non-resident taxable person" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India. A non-resident taxable person making taxable supply in India has to compulsorily take registration. Moreover, ITC on only goods imported by Non- Resident Person is available.

Cancellation of Registration

For Composition Taxpayers, the registration can be cancelled if they do not furnish their return for three consecutive tax periods. Since, the return for composition taxpayers has now become annual instead of quarterly. Therefore, the proposed criteria for cancellation of registration is that the GST Return for Composition Scheme i.e., GSTR-4 has not been filed for three monthsfrom the due date of furnishing such return.

For Normal Taxpayer, the registration can be cancelled if they do not furnish their return for six consecutive months. The proposed criteria for cancellation of registration is that the returns have notbeen filed for the prescribed period (which is likely to be less than six months).

Reversal of ITC with Interest

Section 41 of the CGST Act, 2017 provided for provisional credit till the two-way matching of ITC was made. Since, the two-way matching provisions have now been removed, there will not be any requirement of providing provisional inputtax credit. Availment of Input Tax Credit in the electronic credit ledger would be considered as finalcredit itself.

If Outward tax liability has not been discharged by the supplier, then the recipient has to reverse input tax credit along with interest. However, upon payment of outward tax liability by the supplier, the recipient can re-avail such Input Tax Credit.

Time limit of Issuing Credit Notes

Any registered person who issues a credit note in relation to supply of goods or services or both shall declare the details of such credit note in the return of the respective months during which such credit note has been issued.

Currently, the time limit for issuing such credit notes is not later than 30th of September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier. The tax liability shall be adjusted accordingly. The revised time limit for issuing such credit notes is not later than 30th November of next financial year or furnishing of the relevant Annual Return, whichever is earlier.

Filing of GSTR-1/3B

A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods or the details of the outward supplies for the said tax period has not been filed by them. In simpler words, GSTR-3B of a particular tax period will not be allowed to be furnished until GSTR-1 been furnished for the same period. By notification, the Government may allow certain category of registered person to furnish their GSTR-3B even if the GSTR-3B for the earlier period or GSTR-1 for that tax period has not been filed.

A registered person shall not be allowed to furnish the details of Outward Supplies for a tax period if the details of outward supplies for any of the previous tax periods has not been furnished by him. A supplier would not be allowed to file GSTR-1 of a subsequent tax period unless the GSTR-1 of the prior tax period is filed. Thus, the supplier shall be required to file GSTR-1 in the sequential manner.

Refund of Supplies to SEZ

The taxpayers can claim the refund of accumulated ITC in the following situations:

- When an inverted tax structure prevails in the business.
- With respect to the export of goods or services made without payment of tax by reporting the Letter of Undertaking (LUT) or bond.
- In case of supplies to Special Economic Zone (SEZ) units or developers without payment of tax.
- By foreign embassies and international organizations on their purchases of Goods or services.

A Refund application shall be made within 2 years from the relevant Date. However, in case of refund of any unutilized ITC on account of supplies to SEZ unit / developer without payment of tax, no relevant date had been prescribed by the GST law. The relevant date for calculation of time limit for filing refund application has been proposed to be the due date of GSTR-3B of the month on which supply to SEZ was made.

Withholding/Deduction - Refund

Where any refund is due to a registered person who has defaulted in furnishing any return or has not discharged the accurate GST liability, the refund due is liable to be withheld or liability is deductible from the amount of refund due. Earlier, this clause was applicable only for refund of unutilized input tax credit i.e., for exports, supplies to SEZ and inverted duty structure.The withholding and deduction of refund is now being proposed to be extended to all kinds of refunds if there is any pending liability of the applicant.

Transfer of Balance in Electronic Cash Ledger

Earlier, taxpayer could only transfer the balance in Electronic Cash Ledger under one head of tax, interest, penalty, fee and other amount to the electronic cash ledger of the other heads of tax. This has been proposed to allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person. This means that ITC may be transferred within various branches of an entity have separate GSTIN but the same PAN. However, Electronic Cash Ledger Balance of CGST cannot be transferred to the distinct person under State Tax Head.

Further, no transfer shall be allowed if there is any unpaid liability in Electronic Liability Register of the person making such transfer.

Changes Relating to GSTR-8

In case of returns furnished by e-commerce operators required to collect TCS i.e., GSTR-8, if the taxpayer fails to furnish the details of outward supplies required, Late fees of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees have been proposed to be prescribed if the return has not been filed within the due date.

Presently, there is no late fee for late filing of GSTR-8 by an E-Commerce Operator.

Moreover, For E-commerce operators required to collect TCS and are filing GSTR-8, the last date for rectification of any error or omission for any financial year has been provided as the due date of filing GST Return of September of the next financial year. This date is now being modified to 30th November of the next financial year.

Interest on ITC wrongly Availed & Utilized

A taxable person who makes an undue or excess claim of input tax credit or undue or excess reduction in output tax liability shall pay interest on such undue or excess claim or on such undue or excess reduction. The rate of interest to be paid has now been proposed to be altered. Now, interest would be applicable only upon ITC wrongly availed and utilized due to any reason andnot only due to the matching concept.

If the balance is present in the electronic credit ledger after its availment, no interest can be charged on it. But, if the same has been utilized, the ITC shall be reversed at Interest rate under Section 50(3) of CGST Act, 2017 as per Notification No. 13/2017-Central Tax dated 28th June 2017 which is currently charged @24%. Now, it is proposed to reduce the interest rate down to 18% with retrospective effect.

Rectification in GSTR-3B

Any rectification of error or omission, other than Scrutiny, Audit, in GSTR-3B, for any financial year has been provided as the due date of filing September return (GSTR-3B) of the next financial year i.e., 20th October in case of monthly return filers and 22nd / 24th October in case of quarterly return filers.

The date is now being modified to 30th November. In effect, the last return within which the rectification will be allowed is extended to October GSTR-3B, to be filed within 30th November (assuming the returns are filed within the due date). If the returns are not filed within the due date, the return in which the modification of last year is being carried out, say some modifications are there in the month of July, the adjustments should be filed by 30th November.

Production of Fish-Meal

Levy of GST on fishmeal was exempted from 1st July, 2017 to 30th September, 2019 to relax the sea-food industry. Further to help this industry, it is proposed in the 45th GST Council Meeting to exempt levy of GST from 1st July, 2017 to 30th September, 2019, on unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil. Further, it has been proposed to clarify that refund shall not be granted to taxpayers who had collected tax on the aforesaid items.

Grant of Liquor License

Any services by way of granting alcoholic liquor license, against which consideration in the form of license fee or application fee is taken, undertaken by the State Governments engaged as public authorities, is neither considered as a supply of goods nor a supply of service and accordingly levy of GST is not applicable w.e.f 1st July, 2017. It is proposed to give effect to the aforesaid provision retrospectively. Further, it has been proposed to clarify that no refund shall be granted to taxpayers who had collected tax on the aforesaid services.

Interest Calculator

Like the facility of auto calculation of Late fee in GSTR-3B, GSTN has introduced another functionality of auto calculating the interest liability. This new facility will auto calculate the interest liability and will be auto-populated in GSTR -3B, which are editable, but the same shall be highlighted in GSTR-3B as 'System computed interest' and 'User paid interest'.Taxpayers shall have the option to provide the break-up of tax liability to calculate the actual interest. The breakup of tax liability is only relevant in the case when any liability pertains to the older period, as the interest liability for any previous period supply will be calculated on the entire liability, irrespective of whether the same shall be paid through Credit or Cash.

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