INDIRECT TAX EXPRESS

Fortnightly e-newsletter from m/s DAVA& Associates, Chartered Accountants

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FROM THE EDITORIAL TEAM

Business Processes for Payments under GST

The basic features emerging from draft business processes on GST Payment process report are as follows:-

- Challan to be generated only from GSTN and no manual challans to be used.
- 3 payment modes are proposed:
  - Through internet banking through authorized banks and through credit/debit card
  - Over the Counter payment (OTC) through authorized banks
  - Payment through NEFT/RTGS from any bank

Payment through internet banking through authorized banks and credit/debit card –

- Payment Challan can be generated by registered tax payer or his authorized person by logging on to GSTN Common Portal or by grant of temporary Registration number on GSTN Common Portal for facilitating tax payments on behalf of an unregistered person.
- Thereafter taxpayer will fill in the details of the taxes to be paid with the option to pay CGST, IGST, Additional Tax and SGST concurrently. After the tax payer has finalized the challan, he will generate the challan for use of payment of taxes.
- The challan will have a 14-digit (yymm followed by 10-digit) Unique Common Portal Identification Number (CPIN), assigned only when the challan is finally generated, to help in identifying the challan. The CPIN/challan would be valid for a period of 7 days.
- The taxpayer can choose his preferred payment method and make payment accordingly. After the successful completion of a transaction, bank will create a unique Challan Identification Number (CIN) against the CPIN. This will be a unique 17-digit number containing 14-digit CPIN generated by GSTN for a particular challan and unique 3-digit Bank code.
- A copy of the paid challan (downloadable/printable) with auto-populated CIN, date and time of payment and a statement confirming receipt of the amount by the bank will be provided to the taxpayer by GSTN.
- There would be 4 main accounting codes being CGST, IGST, Additional Tax & SGST and 5 sub-codes for each Major Head i.e. tax, Interest, Penalty, Fees & Other receipts.

Over the Counter payment (OTC) through authorized banks –

- Every tax payer who wants to avail the facility of OTC payment (only for paying tax upto Rs. 10,000/- per challan), will access GSTN for generation of a challan through which payment is to be made.
- Thereafter, taxpayer will fill details of the taxes that are to be paid. After the tax payer has finalized the challan, he will generate the challan for payment of taxes. The challan will have a Unique Common Portal Identification Number (CPIN), assigned only when the challan is finally generated. The CPIN/challan would be valid for a period of 7 days.
- The taxpayer can either download the challan form and print it offline or can print the challan directly from GSTN.
- Thereafter taxpayer will approach the authorized bank for payment of taxes along with the instrument or cash. Since the tax payer is required to pay four types of taxes, he may either submit 4 instruments for crediting to the respective accounts or 1 instrument only.

Inside this issue:

GST NEWS

Special Secretary in the Ministry of finance Rashmi Verma said at an event organised by industry body Assocham that the draft model law on Goods and Services Tax (GST) will take one more month and once that is done, it will be put in public domain and the similar process of consultation with trade bodies will be done. Expressing hope that GST Bill will be passed in Rajya Sabha, Verma said: "We are fully prepared to implement GST from 2016, our IT (Information Technology) infrastructure is going to be in place."

Source: economictimes.indiatimes.co

IDT NEWS

As per CBEC Press release dated 09-12-15, Indirect Tax Revenue (Provisional) Collections Increased from Rs. 44,475 Crore in November, 2014 to Rs. 55,297 Crore during November, 2015, thus registering an Increase of 24.3% during the month November 2015 over the corresponding period in the Previous Year as a result of tremendous increase of 58.3% in Central Excise, while customs collections merely increased by 1.7% and service tax by a considerable amount of 16.1% as compared to that in November 2014.

- The taxpayer should preferably carry two copies of the challan, one for the bank's record and another for himself to get acknowledgement.
- In case of cash payments or same bank instruments, the payment would be realized immediately and a transaction number (BTR/BRN) and CIN will be generated immediately which will be unique for each and every transaction. In case an instrument drawn on another bank in the same city is presented, the payment would not be realized immediately and CIN will also not be generated immediately. CIN will be communicated to him from GSTN when payment is realized.

Payment through NEFT/RTGS from any bank –

- Every tax payer who wants to avail the facility of payment through NEFT/RTGS mode will access GSTN for generation of a challan through which payment is to be made.
- Upon creation of the draft challan, the taxpayer will fill details of the taxes that are to be paid. After the tax payer has finalized the challan, he will generate the challan for use of payment of taxes. The challan will have a Unique Common Portal Identification Number (CPIN), assigned only when the challan is finally generated. The generated Challan will have a NEFT / RTGS mandate associated with it.
- The taxpayer can either download the challan form along with the NEFT / RTGS mandate form and print it offline or can print the challan directly from GSTN and approach his bank branch for payment of taxes. The payments in this mode would be permitted only against cheques and no cash payments would be permitted to initiate NEFT / RTGS transaction.
- Upon successful completion of the transfer at the end of the remitter bank, the remitter will get a Unique Transaction Reference (UTR). Taxpayer should thereafter login back to GSTN portal and update the challan details with UTR provided by the remitter bank for NEFT / RTGS transaction. CIN and BRNs will be communicated by GSTN to taxpayer.

NOTIFICATIONS & CIRCULARS

- Central Government, vide **Notification Nos. 26/2015-ST** & **25/2015-CE (N.T.)** both dated **09.12.2015**, has amended the Service Tax Rules 1994 and Central Excise Rules 2002 respectively, to extend the due date for depositing service tax and excise duty payable by the assessees in the state of Tamil Nadu for the month of November'2015, to 20.12.2015.
- Central Government, vide **Circular No. 1012/19/2015-CX** dated **02.12.2015**, has clarified that registration under North East Industrial and Investment Promotion Policy (NEIIPP), 2007 is not mandatory to avail the benefit of excise duty exemption under **notification no.20/2007-Central Excise dated 25.04.2007** and thus will be allowed as such to the new units or units undertaking substantial expansion in those parts.
- Central Government, vide **Notification No. 56/2015-Cus dated 11.12.2015,** has amended the Notification No. 39/96-Customs, dated the 23rd July, 1996 relating to exemptions on imports relating to defence and internal security forces.
- Central Government, vide **Notification No. 57/2015-Cus dated 14.12.2015,** has amended customs duty on certain items by amending the Notification No. 69/2011-Customs dated the 29th July, 2011 relating to concessional rate of duty for imports from Japan.
- CBEC vide **Notification No. 137/2015-Cus(NT) dated 07.12.2015 has** amended the Notification No. 12/97-Customs(NT), dated the 2nd April, 1997 relating to Inland Container Depots for loading and unloading of goods.
- CBEC vide **Notification No. 24/2015-CE(NT) dated 07.12.2015 has amended notification no.** 27/2014-CE(NT) dated 16th September, 2014 relating to Jurisdiction of Principal Chief Commissioners of Central Excise.

QUIZ!!!

1. Exemption to Services provided by a mutual fund agent to a mutual fund or asset management company was removed with effect from which date?

2. According to the CESTAT Procedure Rules, 1982, whether a memorandum of appeal to the Tribunal can be sent by registered post?

3. What is the turnover limit for which Digital Signature has been made mandatory for filing of WBVAT return in form 14/14D from Q.E. December 2014?

(Please mail your replies with your name and mail id to **davaidtexpress@gmail.com)**
(The first 3 correct answers will be published in the next issue with name & mail id of the sender.)

ANSWER TO LAST FORTNIGHT'S QUIZ

Reply to Q1- **Meghalaya**
Reply to Q2– **Form-88**
Reply to Q3– **False**

Reply given by:

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CASE UPDATES

1. **Future Gaming & Hotel Services (P) Ltd. vs. Union of India [2015 (40) S.T.R. 833 (Sikkim)]**

Issue: - Whether the selling and marketing agents, purchasing lottery tickets from petitioners/distributors for promoting, organizing or assisting in arranging the sale of lottery tickets of the Government of Sikkim, are liable to pay service tax under reverse charge mechanism?

Decision- Hon'ble Sikkim High Court observed that since the selling and marketing agents purchase the tickets from the petitioners/distributors as goods on payment of price leaving the former charged with all the liabilities down the line to the second tier agents it cannot be considered as an activity carried out for consideration in relation to or for facilitation of a transaction in money carried out by a lottery distributor or a selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind in any other manner as provided under Explanation 2 to Clause (44) of Section 65B. There is no dispute of the fact that like the petitioners/distributors of the first tier, who purchase the lottery tickets in bulk as goods for price from the State Government, the second tier comprising of the selling and marketing agents also purchase from the petitioners/distributors lottery tickets in bulk as goods on payment of price severing all other relations. There is no privity of contract between the petitioners/distributors and the sellers and the buyers down the line after the second tier. Thus, the levy of reverse service tax vide Notification No. 30/2012-S.T. dated 20.06.2012, as amended by Notification No. 7/2015-S.T. dated 01.03.2015, is clearly unsustainable and liable to struck down.

2. **Commr. of S.T., Chennai vs. Zak Trade Fairs & Exhibitions Pvt. Ltd. [2015 (40) S.T.R. 873 (Mad.)]**

Issue: - Whether the Tribunal is right in law, in remanding the matter back with a pre-condition not to impose any penalty on the party?

Decision- The Hon'ble Madras High Court held that once the quantum, as to whether correct amount of duty has been paid and at what stage and its implication has been left to the discretion of the adjudicating authority, on remand, it is always open to the said authority to decide the question of penalty and it cannot be restricted by any direction that no penalty should be imposed. Thus, the Tribunal cannot take away the discretion of the authority to levy penalty if it is imposable according to law.

3. **Apollo Metalex Pvt. Ltd. vs. Commissioner of C. Ex & S.T, Noida 2015 (323) E.L.T. 394 (Tri. - Del.)**

Issue: - Whether Cenvat credit can be denied where the provider of inputs is registered under Central Excise as a manufacturer but not as a trader/dealer and there was no evidence that the impugned goods were dispatched from the factory of the provider of inputs?

Decision- M/s. RRB Chemicals are manufacturers of zinc oxide and have Central Excise registration as a manufacturer and there is no dispute that from the same premises, they were also conducting their trading activities in G.P. Sheets. The G.P. sheets procured by RRB Chemicals from ACCIL were being supplied as a consignment agent to M/s. AMPL. Upto certain point of time, M/s. RRB Chemicals had not obtained separate Central Excise registration as a registered dealer and during this period, M/s. RRB Chemicals were availing Cenvat credit in their RG 23A Account in respect of the G.P sheets and they were also clearing the G.P Sheets as such under the invoices issued to M/s. AMPL on reversal of the credit to M/s. AMPL and on the basis of such invoices, M/s. AMPL were availing Cenvat credit. In respect of this practice, the Department's objection is that the investigation revealed that G.P. sheets were not being unloaded in the factory of M/s. RRB Chemicals and there is no evidence that G.P. sheets were dispatched from the factory to the Apollo Metalex. It is not the department's case that AMPL did not receive the G.P. sheets which were covered by the invoices of M/s. RRB Chemicals as consignment agent. In these circumstances, it would not be correct to deny the Cenvat credit to M/s. AMPL and impose penalty on them as well as on M/s. RRB Chemicals. In view of this, it was held that the Order-in-Original No. 34-35/2013, dated 31-12-2013 denying the Cenvat credit to M/s. AMPL and imposing penalty on them as well as M/s. RRB Chemicals is not sustainable and the same has to be set aside.

FREQUENTLY ASKED QUESTIONS

Query 1: XYZ Ltd. is engaged in providing records management service. The records collected from the clients are stored on racks inside the warehouse. Whether it can avail Cenvat Credit of the excise duty paid on purchase of racks?

Reply by e-newsletter team: Cenvat credit of excise duty paid on purchase of racks is not available as capital goods since it does not fall under the definition of capital goods. However, definition of inputs means and includes all goods used for providing any output service. Hence Racks appear to be covered under the definition of inputs and therefore Cenvat credit of the excise duty paid for procuring racks may be taken by XYZ Ltd. Further, various courts of law have held from time to time that racks used for storing of inputs and finished goods in a factory can be treated as inputs and the ratio of these cases can be applied in this case.

Victory is always possible for the person who refuses to stop fighting.

- Napoleon Hill

Query 2: Mr A provided some service to Mr. B but did not charge service tax on it under the assumption that the service is non-taxable. Thereafter, during departmental audit he came to know that service tax was applicable and therefore he paid it to the Revenue. He then issued a supplementary bill to Mr B for recovering service tax. Whether, Mr. B is eligible to claim Cenvat credit on the basis of supplementary invoices?

Reply by e-newsletter team: As per Rule 9(1)(bb) of Cenvat Credit Rules, 2004, Cenvat credit can be taken on the basis of a supplementary invoice, bill or challan issued by a provider of output service, in terms of the provisions of Service Tax Rules, 1994 except where the additional amount of tax became recoverable from the provider of service on account of non-levy or non-payment or short-levy or short-payment by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of the Finance Act or of the rules made thereunder with the intent to evade payment of service tax. Hence, in this case, if it is proved that Mr. A did not charge service tax on a bona fide belief and not by reason of fraud or collusion or wilful mis-statement or suppression of facts, then Mr. B can take Cenvat credit on the basis of supplementary invoices issued by Mr. A.

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