

FROM THE EDITORIAL TEAM

Key Components of GST Returns GSTR-1 and GSTR-4

A. GST Return for Outward Supplies made by the Taxpayer (GSTR-1) – GSTR-1 is required to be filed by all taxpayers except the compounding taxpayers and Input Service Distributors. Besides the basic details like Name of the taxpayer along with GSTIN & period to which return pertains, the GSTR-1 return would capture following information:

1. Information about Gross turnover of the Taxpayer in the Previous Financial Year would be submitted by the taxpayers only in the first year and will be auto-populated in subsequent years.
2. Invoice level specified details, for all B2B supplies (whether inter-state or intra-state) separately for goods and services.
3. Invoice level specified details for all inter-state B2C supplies, having value more than ₹ 250000/- separately for goods and services. For invoices below this value, state-wise summary of supply statement to be filed covering (a) invoices having value less than ₹ 50000/- and where address is on record and (b) invoices having value between ₹ 50000/- to ₹ 250000/-.
4. Following parameters with respect to HSN code for goods and accounting codes for services will apply for submitting the information in return relating to invoice level information for B2B supplies (both intra-state and inter-state) and inter-state B2C supplies (where taxable value per invoice is more than ₹ 2.5 lakhs):
 - a) HSN code (4 digits) for goods and accounting code for services will be mandatory initially for all taxpayers with turnover in the preceding financial year above ₹ 5 crores.
 - b) For taxpayers with turnover between ₹ 1.5 Crores and ₹ 5 Crores in the preceding financial year, HSN codes may be specified only at 2-digit chapter level.
 - c) Prescribed Accounting code will be mandatory for those services for which Place of Supply Rules are dependent on nature of services to apply the destination principle, irrespective of turnover.
 - d) HSN Codes at 8-digit level and Accounting Codes for services will be mandatory in case of exports and imports.
5. For all Intra-State B2C supplies, consolidated sales (supply) details will be uploaded. However a dealer may at his option furnish invoice wise information in respect of exempted and nil rated supplies also.
6. Details relating to the Place of Supply in order to identify the destination state.
7. Details relating to supplies attracting Reverse charge will also be submitted.
8. Details relating to advance received against a supply to be made in future will be submitted in accordance with the Point of Taxation Rules as framed in the GST law.
9. Details relating to taxes already paid on advance receipts for which invoices are issued in the current tax period will be submitted.
10. Details relating to supplies exported (including deemed exports) both on payment of IGST as well as without payment of IGST would be submitted.
11. Separate table for submitting details of revision in relation to outward supply invoices pertaining to previous tax periods.
12. Separate table for effecting modifications/correcting errors in the returns submitted earlier.

January, 2016
Volume 18, Issue 1

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GST NEWS

The Central Government is examining the feedback of stakeholders on business processes regarding the proposed Goods and Services Tax (GST) regime, CBEC Chairman Najib Shah said today in a keynote address on 'Taxation Issues and the way Forward for GST and FDI' at CII's Retail Summit at New Delhi held on 15th January 2016. The Central Board of Excise and Customs (CBEC) Chairman further said the GST should give big boost to the volumes in the retail sector because of the expected increase in the commodities consumption.

-The Economic times

Non-compliance of tax payment by restaurants, event managers and outdoor caterers is a major concern for the service tax department in Calcutta.

"Often the transactions made by these institutions are cash-based and there is no documentary proof," said S.K. Panda, chief commissioner of service tax, Calcutta zone.

The service tax collection in the Calcutta zone in 2014-15 was Rs 5,181.39 crore. In 2015-16, the collection has already touched Rs 4,671.91 crore, helped partly by the recent drives of the department to collect unpaid dues.

- **The Telegraph**

13. Separate table for submitting details in relation to NIL rated, Exempted and Non GST outward supplies to (both inter-state and intra-state) to registered taxpayers and Consumers.

14. This return needs to be filed by 10th of the succeeding month.

B. Quarterly Return for compounding Taxpayers (GSTR-4) - After crossing the threshold exemption limit, the taxpayers may opt for compounding scheme wherein they would be required to pay taxes at fixed rate without any ITC facilities. Such taxpayers would be required to file a simplified quarterly return (GSTR-4) as per the format prescribed. Salient features of the return are as follows:

1. In this return the taxpayer is only required to indicate the total value of supply made during the period of return and the tax paid at the compounding rate along with the details of payment of tax in the return.
2. The compounding taxpayer will also need to declare invoice-level purchase information (auto-drafted from supply invoice information uploaded by counter-party taxpayers) for the purchases from normal taxpayers.
3. The Compounding taxpayer will also be required to submit details of the goods and services imported from outside India.
4. The Compounding taxpayers would be allowed to export supplies outside India.

C. Non-Resident Foreign Taxpayers (GSTR-5) - Non-Resident foreign taxpayers would be required to file GSTR-5 for the period for which they have obtained registration within a period of seven days after the date of expiry of registration. In case registration period is for more than one month, monthly return(s) would be filed and thereafter return for remaining period would be filed within a period of seven days as stated earlier.

NOTIFICATIONS & CIRCULARS

• Central Government, vide **Notification No. 02/2016-CE dated 15.01.2016** has again increased the Excise Duty on unbranded Petrol to Rs. 8.48/l, branded petrol to Rs. 9.66/l, unbranded Diesel to Rs. 9.83/l and branded diesel to Rs. 12.19/l w.e.f. 16.01.2016.

• CBEC vide **Notification No. 11/2016-Customs (N.T.) dated 12.01.2016** has appointed the Additional Director General(Adjudication), Directorate of Revenue Intelligence, Delhi to act as a Common Adjudicating Authority to exercise the powers and discharge the duties conferred or imposed for the purpose of adjudication of some specified show cause notices mentioned therein.

• The Central Government, vide **Notification No. 01/2016-Cus dated 04.01.2016**, has reduced the export duty on Iron Ore Pellets from 5% to Nil.

• The Central Government, vide **Notification No. 02/2016-Cus dated 06.01.2016**, has given exemption from basic and additional duty to 'Goods specified in List 13 required in connection with petroleum operations undertaken under specified contracts under the Marginal Field Policy (MFP)' when imported into India.

• The Central Government, vide **Notification No. 03/2016-Cus dated 11.01.2016**, has rescinded the notification No. 09/95-Cus dated 06.03.1995. The said notification provided exemption to specified goods imported from Union of Myanmar.

QUIZ!!!

1. State whether true or false – "If a dealer paying tax at a compounded rate under the WBVAT Act, 2003 fails to pay such tax for any three quarters of the year, then such option shall be withdrawn."
2. Whether cenvat credit of additional duty of customs leviable u/s 3(5) of CTA, 1975 can be transferred from one registered premises to another registered premises of the same manufacturer?
3. Whether service tax is chargeable on premises given on rent to the Reserve Bank of India?

(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- **True**

Reply to Q2- **upto Rs. 5000/-**

Reply to Q3- **110% of Cost of Production**

Reply given by:

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1. Manoranjan Singh Duggal vs. C.C.Ex Delhi [2015 (325) E.L.T. 892 (Tri. - Del.)]

Issue: - Whether Cenvat Credit can be denied on the ground that first stage dealer did not supply goods to second stage dealer from whom the appellant purchased the goods?

Decision: - Appellants have maintained proper records to prove that the goods have been received in their factory premises. Records such as, material receipt register, gate entry register etc., were also produced before the department, but the authenticity of the documents had not been doubted. Further, register maintained by the appellant clearly shows that the amount indicated therein has been paid to the second stage dealer for supply of the goods and that the said payment has been routed through approved banking channel. Denial of cenvat credit on the ground of investigation conducted at the premises of the first stage dealers, cannot be the defensible ground, especially in view of the fact that no investigation has been conducted at the premises of the second stage dealer, from whom the goods have been purchased by the appellant. Thus, the impugned order was set aside and the appeal was allowed by the Hon'ble Delhi CESTAT.

2. Omar Agencies (Hutch) vs. C.C.Ex, Allahabad [2015(40) S.T.R. 1135 (Tri.-Delhi)]

Issue: - Appellant is selling SIM Cards/recharge vouchers of M/s Aircel Digilink India Ltd. in lieu of commission. Whether appellant is eligible to avail cenvat credit of service tax charged by M/s Aircel Digilink India Ltd.? Whether penalty under Section 76 of Finance Act, 1994 can be imposed for violation of cenvat credit rules, 2004 in this case?

Decision - The commission was received by appellant from M/s Aircel Digilink India Ltd. Co. The Company did not provide any service to the appellant nor did the appellant make any payment to M/s Aircel Digilink India Ltd. Service tax was paid by M/s Aircel Digilink India Ltd. Co on its output service (telephone services) which were not provided to the appellant. Thus, the service tax was paid by M/s Aircel Digilink India Ltd. Co. was on services which were clearly neither provided to the appellant nor where eligible to be called input service in appellant's respect.

Penalty u/s 76 ibid is leviable only if a person fails to pay the service tax it is liable to pay in accordance with the provisions of Section 68 or rules made in that regard and therefore penalty under Section 76 cannot be sustained in this case as no service tax was held to be payable by the assessee in accordance with section 68 ibid or rules made in that regard.

3. Goyal M.G. Gases Pvt. Ltd. vs. Commissioner of C. Ex. & S.T., Chandigarh [2015 (325) E.L.T. 768 (Tri. - Del.)]

Issue: - Whether filling of compressed hydrogen gas into cylinders for supply to industrial user, amounts to 'manufacture' rendering said product marketable and excisable?

Decision – The Hon'ble Tribunal held that in the case in hand as per Chapter Note 9 of Chapter 28 of the CETA, 1985 the activity of compressor does not amount to manufacture. Further, in the case of Ammonia Supply Company v. CCE, New Delhi - 2001 (131) E.L.T. 626 (Tri.-Del.), this Tribunal held that Ammonia gas from bulk packing to smaller container will not amount to manufacturing process. Admittedly, in this case the gas from pipeline into cylinders is a similar activity and same shall not amount to manufacturing process. Chapter Note 4 of the Chapter 27 states that in relation to lubricating oil and lubricating preparations of Heading 2710, labelling or re-labelling of containers or repacking from bulk packs to retail packs or adoption of any other treatment to render the product marketable to the consumer shall amount to manufacture. In our views, the word 'consumer' in the expression would not cover an industrial user or manufacturer who processes the transformer oil/lubricants for his own industrial use. In this case, the appellant had subjected the transformer oil purchased by them to the process of filtration and heating to make it suitable for their own industrial use i.e. for repair of the transformers. The process undertaken by the appellant thus, does not amount to manufacture and as such the impugned orders are not sustainable.

4. United White Metal Ltd. vs. Commissioner Of Central Excise, Mumbai-V [2015 (326) E.L.T. 202 (Tri.-Mumbai)]

Issue: - Whether Cenvat Credit should be reversed when the capital goods have been removed after using it for 10 years?

Decision: – Rule 3(5) of the Cenvat Credit Rules, 2004 provides for the reversal of Cenvat credit only when the goods are removed "as such". In the facts of the case as admitted, the goods have been used for about 10 years. Thus, the goods are not removed "as such", no credit is required to be reversed. Further, in the second proviso to Rule 3(5), wherein it was provided that 2.5% allowance of the credit taken, is to be given for each quarter of use. The Hon'ble Mumbai CESTAT held that under the facts and circumstances, the appellant is entitled to 100% rebate on this count also. Accordingly, the appeal was allowed with consequential relief, if any, in accordance with law.

FREQUENTLY ASKED QUESTIONS

“Many of life's failures are people who did not realize how close they were to success when they gave up.”

- Thomas Edison

Query 1: Company A is an agent of company B. The security bills and other bills attracting Reverse Charge are paid by Company A. Then the bills are passed on to company B for reimbursement. In this case, who is liable to pay service tax under Rev. Charge Mechanism - Company A or Company B?

Reply by e-newsletter team: W.e.f 14.05.2015, definition of Consideration in Clause (a) of the explanation to Section 67 has been amended to include “Any reimbursable expenditure or cost incurred by the service provider and charged in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed” Therefore, reimbursement of expenditure or cost incurred and charged in the course of provision of service by the service provider other than as pure agent is required to be included for determining taxable value of service. In this case, it needs to be seen whether the payments on reverse charge is being made by Company A as a pure agent, i.e. on behalf of Company B or actually the services have been received by Company A itself. In the first case, company B shall be liable to pay service tax and in second case, company A shall be liable.

Query 2: A Company was issued SCN under service tax in January 2008 and as per the statue the reply was submitted within 30 days. After a long vacation, the department issued a notice fixing the personal hearing for the SCN in the month of January 2016. Whether the notice issued is valid after lapse of almost 8 years? Is there any time limit under the service tax provisions to complete formalities after issue of SCN?

Reply by e-newsletter team: As per Section 73(4B) of Finance Act. 1994, the Central Excise Officer shall determine the amount of service tax due under sub-section (2) within 6 months from the date of notice where it is possible to do so, in respect of cases whose limitation is 18 months in sub-section (1); and within 1 year from the date of notice, where it is possible to do so, in respect of cases whose limitation is 5 years falling under the proviso to sub-section (1) or the proviso to sub-section (4A). Hence, the wording of the provision is such that it is not mandatory for the department to complete the proceedings within the given time period.



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