

## FROM THE EDITORIAL TEAM

### Key Components of GST Return: GSTR-3

**A. Monthly GST Return for the Taxpayers (GSTR-3)** – GSTR-3 is required to be filed by all taxpayers, except the compounding taxpayers and Input Service Distributors, by 20<sup>th</sup> of the succeeding month. The return would be permitted to be filed both on online and offline mode. Besides the basic details like Name and Address of the taxpayer along with GSTIN & period to which the return pertains, the GSTR-3 return would capture following information:

1. Turnover Details including Gross Turnover, Export Turnover, Exempted Domestic Turnover, Nil Rated Domestic Turnover, Non GST Turnover and Net Taxable Turnover.
  2. Final aggregate level outward and inward supply information will be auto populated from GSTR-1 and GSTR-2 returns of the taxpayer.
  3. Separate tables for calculating tax amounts on outward and inward supplies based on the information contained in various tables in the GSTR-3 return.
  4. A separate table for capturing the TDS credit received and credited to the cash ledger of the deductee.
  5. Tax liability under CGST, SGST, IGST and Additional Tax.
  6. Details regarding revision of invoices relating to outward and inward supplies, as per details provided in GSTR-1 & GSTR-2 returns.
  7. Details of other liabilities like Interest, Penalty, Fee, etc. should be submitted by the taxpayers.
  8. Information about ITC ledger, Cash ledger and Liability ledger will be maintained electronically on the dashboard of taxpayer by GSTN and would be updated in real time on an activity in connection with these ledgers by the taxpayer. Details in these ledgers will get auto populated from previous tax period return (irrespective of mode of filing return i.e. online / offline utility).
  9. Details of ITC utilized against tax liability of CGST, SGST and IGST on supplies of goods and services.
  10. Net tax payable under CGST, SGST, IGST and Additional Tax.
  11. Details of the payment of tax under various tax heads of CGST, SGST, IGST and Additional Tax separately would be populated from the debit entry in Credit/Cash ledger.
- [GST Law may have provision for maintaining four head wise account for CGST, SGST, IGST and Additional tax and at associated minor heads for interest, penalty, fee and others.]
12. Excess payment, if any, will be carried forward to the next return period. The taxpayer will have the option of claiming refund of excess payment through the return for which appropriate field will be provided in the return form. The return form would display all bank account numbers mentioned in the registration, out of which one will be selected by the taxpayer to which the refund will be credited.
  13. Details of other payments in the nature of Interest/Penalties/Fee/Others, etc. will be auto populated from the Debit entry in Cash ledger, irrespective of mode of filing return in online/offline utility.
  14. Details of ITC balance (CGST, SGST and IGST) at the end of the tax period will be

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### GST NEWS

The rate of service tax could go up to a flat 16% from an effective rate of 14.5% now in the coming Budget 2016-17, but the government would try to soften the resultant blow to businesses and consumers with a broadening of the credit base and an increase in the turnover threshold for the tax net, from Rs. 10 lakhs at present to Rs. 25 lakhs. The rate hike, in step with the need to align the service tax with the proposed GST rate of 18-20%, would still yield significant additional revenue to the government.

- The Financial Express

In what is seen as a revival of economic activity in the country, tax collections, particularly the mop-up from Customs duty on machinery and service tax, posted a sharp jump in the first 10 months of this fiscal.

For the first time in five years, the government is likely to meet Rs. 14.49-lakh crore tax collection target for 2015-16 with robust indirect tax mop-up making up for the shortfall in direct levies. The Centre's total tax collection touched Rs. 10.66-lakh crore between April 2015 and January 2016, which amounts to 73.5% of the full-year target.

**-Hindu Business Line**

Auto-populated in the ITC ledger, irrespective of the mode of filing return.

- 15.** In case of net exporter or taxpayers dealing with inverted duty structure or similar other cases also, where input tax credit is greater than output tax due on supply, the taxpayer would be eligible for refund in a similar manner as stated above. The return would have a field to enable the tax payer to claim the refund or to carry forward the ITC balance (CGST, SGST and IGST).
- 16.** Details of cash balance (CGST, SGST, IGST and Additional tax) in personal ledger, at the end of the tax period, will also be auto populated irrespective of the mode of filing return.
- 17.** Information regarding quantity of goods (as per Unique Quantity Code) supplied will not be contained in the monthly return. However, the same would be submitted by the taxpayer in the annual return. The format of the annual return would have a suitable field for this purpose.
- 18.** The GSTR-3 return would be entirely auto-populated through GSTR-1 of counterparty suppliers, own GSTR-2, ISD return (GSTR-6) of Input Service Distributor, TDS return (GSTR-7) of counterparty deductor, own ITC Ledger, own cash ledger and own Tax Liability ledger. However, the taxpayer may fill the missing details.
- 19.** As already stated earlier, the GSTR-3 return would be permitted to be filed both on online and offline mode. In case of offline mode, payment by debit to cash / ITC ledger can be done at an earlier date and such debit entry number would be verified at the time of uploading of the return. On the other hand, in online mode, both debiting and filing can be done simultaneously.

## NOTIFICATIONS & CIRCULARS

- Central Government, vide **Notification No. 01/2016-ST** dated **03.02.2016**, has amended notification no. 41/2012-ST to prescribe new rates of rebate for service tax paid on certain services used for export of goods.
- Central Government, vide **Notification No. 02/2016-ST** dated **03.02.2016**, amended notification no. 12/2013-ST to provide that the SEZ Unit or the Developer shall be entitled to refund of the Swachh Bharat Cess paid on specified services.
- Central Government, vide **Notification No. 02/2016-CE (N.T.)** dated **03.02.2016**, has amended CENVAT Credit Rules, 2004 to provide that the CENVAT credit of any duty specified in sub-rule (1) of Rule 3 shall not be utilised for payment of the Swachh Bharat Cess leviable under section 119 of the Finance Act, 2015.
- Central Government, vide **Notification No. 22/2016-Customs (N.T.)** dated **08.02.2016**, has notified certain changes to the All Industry Rates of Duty Drawback. Further, these amendments were made effective from 11.2.16 vide **CBEC Circular No. 06/2016-Customs** dated **09.02.2016**.
- Central Government, vide **Notification No. 8/2016-Customs** dated **05.02.2016**, has exempted certain goods, when imported into India for display or use at specified events, from the whole of the duty of Customs leviable thereon and from the whole of the additional duty of customs leviable thereon, subject to re-export and the conditions prescribed.
- CBEC, vide **Notification No.23/2016-Customs (N.T.)** dated **09.02.2016**, has amended notification no. 36/2001-Customs (N.T.) dated 03.08.2001 to revise tariff values for import of certain items.

## QUIZ!!!

- 1. The provision to waive penalty under Section 80 of the Finance Act, 1994 was omitted with effect from which date?**
- 2. What is the rate of abatement on maximum sale price of 'Footwear' for payment of excise duty on MRP based valuation under section 4(A)?**
- 3. Whether credit of Swachh Bharat Cess paid on input services can be utilized for payment of its output liability?**

(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- **False**

Reply to Q2- **Principal Commissioner/Commissioner of Central Excise**

Reply to Q3- **18 months**

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### **1. Meru Cab Co. Pvt. Ltd. vs. Commissioner of C. Ex., Mumbai-II [2016 (41) S.T.R. 444 (Tri. – Mumbai)]**

**Issue: - Whether the Radio Taxi Scheme, operated by the appellant by giving the same to a driver for plying the passenger, to fall under the Service Tax net under ‘Supply of Tangible Goods’ or otherwise?**

**Decision:** - For a service to fall under the head of ‘Supply of Tangible Goods’, there has to be a supply of tangible goods or appliances for use, without transferring right of possession and effective control of such tangible goods. In the case in hand, undoubtedly, the tangible goods in form of radio taxi are given to the driver and there is no transfer of the possession of vehicle, and also the effective control of such taxi is still in the hands of the appellant. This view is based upon the fact that the taxi is booked by a call from customer to appellant’s Call Centre. On the basis of the direction of the appellant, the driver of taxi in the vicinity of the passenger ferries him to his desired destination. It is also to be noted that the driver of radio taxi is not a permit holder and he does not have independent authorisation for plying the vehicles, and is allowed to take passengers on instructions and directions from the appellant only. It can also be inferred safely after perusing the clauses of the agreement between the appellant and the driver, the driver is collecting the fare amount from the customer on behalf of the appellant, as fare invoice for the journey is created and issued in the name of the appellant.

The said agreement does not anywhere indicate that the drivers are having the possession of the vehicle for their use, which is the most important aspect to be covered under the category of supply of tangible goods. Accordingly, in the peculiar facts and circumstances of this case, the Hon’ble Mumbai CESTAT held that the appellant is not covered under supply of tangible goods and set aside the order, allowing the appeal with consequential relief.

### **2. Man Structural Pvt. Ltd. vs. Commissioner of C. Ex., Jaipur-I [2016 (331) E.L.T. 460 (Tri. – Del.)]**

**Issue: - Whether excise duty can be demanded on the remnants of angles and channels of iron and steel generated during fabrication of factory shed terming these as waste and scrap?**

**Decision** – As per plain reading of the definition of waste and scrap, it is clear that the same covers only those metal goods which becomes non-usable as such, because of breakage, cutting-up, wear or other reasons. In this case, the duty has been demanded on waste and scrap generated during the course of fabrication of factory shed which was ultimately used for fabrication of trolley line. Therefore, the Hon’ble Delhi CESTAT held that the metal which has been used for fabrication of trolley line cannot be defined as waste and scrap as per Section Note 8 to Section 15 of Central Excise Tariff Act, 1985. Further, the trolley line which has been manufactured by the appellant also falls under Chapter 72 of Central Excise Tariff Act, 1985 and shall not be classified as capital goods. Hence, the waste and scrap in question is not liable for payment of duty.

### **3. Commissioner of C. Ex., Allahabad vs. Alok Prakash [2016 (41) S.T.R. 477 (Tri. – Del.)]**

**Issue: - Whether the activity of providing luxury bus to IFFCO for carrying staff and material to and fro factory and residential colony will be liable to service tax under ‘Tour operator service’?**

**Decision** – The definition of tour operators, during the relevant period, covered persons engaged in business of operating tours in a tourist vehicle having a permit under the Motor Vehicles Act, 1988. In the present case, there is no doubt that the service was rendered using luxury bus which was having the required permit and the said bus was not a stage carriage but a contract carriage. The Hon’ble Delhi CESTAT relied upon the case of *Friends Tour & Travels vs. CCE Noida*, wherein the issue is squarely covered against the respondent and wherein it was held that the activity of providing buses to LG Electronics for dropping of staff was covered under the definition of Tour and the assessee was covered under the definition of tour operator and was liable to pay service tax under Section 65(105)(n) read with Section 65(115) *ibid*. Thus, the respondent provided tour operator service and service tax becomes payable on the same.

## FREQUENTLY ASKED QUESTIONS

**Query 1: Mr. A is engaged in providing consultancy services with turnover less than Rs. 50 lakhs and is accordingly paying his service tax liability on receipt basis. However, in 2015-16, he observed that his turnover was rising above 50 lakhs. In this case, what is the implication on payment of service tax for remaining period of FY 2015-16 and for next FY 2016-17?**

**Reply by e-newsletter team:** As per fourth proviso to Rule 6(1) of Service Tax Rules 1994, in case of individuals and partnership firms whose **aggregate value of taxable services provided from one or more premises is fifty lakh rupees or less in the previous financial year**, the service provider shall have the option to pay tax on taxable services provided or agreed to be provided by him **up to a total of rupees fifty lakhs in the current financial year**, in which the payment is received. Thus, Mr. A can pay tax on receipt basis in the current FY 2015-16 as the aggregate turnover in previous financial year is less than 50 lakhs; but will be required to shift to billing basis as soon as his aggregate turnover exceeds Rs. 50 lakhs. Further, since aggregate value of taxable services provided in the previous financial year would now amount to more than 50 lakhs, service tax will be payable on billing basis in FY 2016-17.

**Query 2: M/s. PQR Limited had received the contract of a private Hydro project and the same was taxable under service tax as works contract service. This project was further sub-contracted to YZ Pvt. Ltd. but service tax on the entire work has been paid by the main contractor. Whether sub-contractor, YZ Pvt. Ltd., will also be liable to pay service tax on such services provided by him?**

**Reply by e-newsletter team:** Clause 29(h) of the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 exempts "Sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt". This exemption is available only when the sub-contractor provides works contract service to the main contractor and the service of the main contractor is exempt from service tax. CBEC, vide Circular No. 993.03 dated 23.08.2007 has also clarified that a sub-contractor is also a taxable service provider, even if his services are used by the main contractor for completion of his work. Thus, YZ Pvt. Ltd. will be liable to pay service tax on the services rendered by him to the main contractor. Thereafter, the main contractor should disburse his service tax liability under works contract, after availing Cenvat credit of the service tax element paid for the input services of the sub-contractor.

"Let us not pray to be sheltered from dangers, but to be fearless when facing them."

-Rabindranath Tagore



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