Tax Talk GST GST

The Monthly Goods & Services Tax Bulletin Rs. 5/-

Editorial...

"Happy New Year 2018" As we turn the leaf for another new chapter in our life, a promising new year awaits to unfold another 365 days of hidden opportunities that we would be exploring as we move along. We wish that you have a joyous and memorable year ahead. At this moment we would like to thank each one of you for being an indispensable part of journey so far completed.

2017 brought its fair share of challenges biggest one is the introduction of GST. The historic introduction of GST and its ups and downs had its impact on the mass. Six months of GST roll out had its own highs and lows. The gradual reduction in the tax rate on number of items and its consequent effect on the prices were major positives for the consumers.

The 24th GST council meeting held on 16th December had exclusively dealt with the issues relating to the introduction of E-way bill. Three major decisions were taken. Firstly nationwide E-way Bill system will be ready to be rolled out on a trial basis from by 16th January, 2018. Secondly, the rules for implementation of E-way Bill system for inter-State movement of goods on a compulsory basis will be applicable from 1st February, 2018 and thirdly E-way bill for intra-State movement of goods shall be compulsorily implemented from 1st June, 2018.

Despite a gradual rise in the taxpayers registering on the GST Network (GSTN) to over 95 lakhs, July-October saw only about 60 lakh of these filing even the summary returns i.e Form GSTR–3B. While the government has relaxed many stringent requirements including reverse charge mechanism, comprehensive returns filing, electronic way bill and tax collection at source, the number of compliant tax payers have not been upto to the mark.

The government has shown concerns over the unexpectedly high transitional credit claims of the tax payers in their TRAN – 1. In order to check the propriety of the aforesaid claims, an in-depth verification of the transitional credits may be a reality in the days to come. Recently CBEC chairperson Vanaja N Sarna had asked tax officials "to ensure non-filers of GSTR-3B are brought into the fold and made to file the returns". The Government has time and again extended the due dates for filling of returns so as to enable more tax payers to comply with the statutory filing requirement. The extension of due dates have been a major relief to taxpayers who have been struggling with system and data issues and are hence not able to file return.

The board has through Press Release dated 21.12.2017 informed that import of pulses have increased due to low prevailing international prices. Such imports suppress the domestic prices of pulses and adversely affect the interest of farmers. Therefore in order to protect the interest of the farmers, the Government has imposed import duty of 30% on Chana and Masoor.

The board has issued various circulars to clarify various issues relating to the filling of refund application, procedure for rectification of errors made while filing FORM GSTR-3B etc. The Government has further issued notification to amendment various provisions of the CGST Rules. The recent notification, circulars have been compiled on Page – 2 & 3 of this issue.

The due dates for the filling of various returns were again extended to allow the non-filers to comply with the return filling requirements. Henceforth the revised due dates in the month of January have been compiled on Page – 4 of this issue.

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 views at servicetaxgoyal@gmail.com. You may refer all earlier issues of Tax Talk at www.gstpeople.com.

CA Sushil Kr Goyal

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Treatment of Supply by an Artist

Artists supply their art works to galleries where it is exhibited for supply. There were confusion whether such supply is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery.

The board has clarified that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

Art work for supply on approval basis can be moved on the basis of a delivery challan along with the E-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

(Circular No. 22/22/2017-GST dated 21.12.2017)

Manual Filing and Processing of Refund Claims

Due to the non-availability of the refund module on the common portal, it had been decided that applications pertaining to refund claims shall be filed and processed manually. The board has clarified that refund claims in respect of zero-rated supplies, inverted duty structure, deemed exports and excess balance in electronic cash ledger shall be filed for a tax period on a monthly/quarterly basis in accordance with the option exercised for filling GSTR-1. The refund shall be filed in FORM GST RFD-01A.

It has been further clarified that claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It must be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

Further since the date of furnishing of FORM GSTR 1 from July, 2017 onwards has been extended while the dates of furnishing of FORM GSTR 2 and FORM GSTR 3 for such period are yet to be notified, it has been decided to sanction refund of provisionally accepted input tax credit at this juncture. However, the registered persons applying for refund must give an undertaking to the effect that the amount of refund sanctioned would be paid back to the Government with interest in case the refund claim is found to be improper.

(Circular No. 24/24/2017-GST dated 21.12.2017)

Maintenance of Books of Accounts by a Principal or an Auctioneer

The principal and the auctioneer both are required to maintain the books of accounts relating to their additional place(s) of business in such places. Due to difficulties in maintenance of books of accounts at each and every additional place of business related to stock of goods like tea, coffee, rubber, etc. meant for supply through an auction, it has been clarified by the CBEC that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).

Such principal or auctioneer shall intimate their jurisdictional proper officer in writing about the maintenance of books of accounts relating to additional place(s) of business at their principal place of business.

It has been further clarified that this circular is applicable to the supply of tea, coffee, rubber, etc. where the auctioneer claims ITC in respect of the supply made to him by the principal before the auction of such goods and the said goods are supplied only through auction.

(Circular No. 23/23/2017-GST dated 21.12.2017)

Advance Ruling

Manual filing of applications for Advance Ruling and appeals before Appellate Authority for Advance Ruling has been prescribed till the advance ruling module is made available on the common portal.

FORM GST ARA-01	Application to the Authority for Advance Ruling for obtaining an advance rule in quadruplicate to be made. The application shall be accompanied by a fee of five thousand rupees which is to be deposited online by the applicant
FORM GST ARA-02	Appeal to the Appellate Authority for Advance Ruling in quadruplicate to be made. The application shall be accompanied by a fee of ten thousand rupees which is to be deposited online by the applicant
FORM GST ARA-03	An appeal made by the concerned officer or the jurisdictional officer of the CGST Act. The appeal shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicant or the concerned officer or the jurisdictional officer, as the case maybe.

(Circular No. 25/25/2017-GST dated 21.12.2017)

Amendment / Corrections / Rectification of Errors in Filing Form GSTR-3B

FORM GSTR-3B provides a provision for editing the error committed in the return only before offsetting the liability. The taxpayer while filling GSTR 1 and GSTR 2 of the same month should rectify the error committed earlier.

The board has clarified that any adjustment relating to the past month(s) tax liability or ITC shall be adjusted in the FORM GSTR-3B of subsequent month(s) and in cases where such adjustment is not feasible, refund may be claimed. Alternatively, such adjustment may be reported on net basis along with the values for current month itself in appropriate tables i.e. Table No. 3.1, 3.2, 4 and 5, as the case may be. However, there cannot be negative entries in the return.

Further, where adjustments have been made in FORM GSTR-3B of multiple months, corresponding adjustments in FORM GSTR-1 should also preferably be made in the corresponding months. Probable errors and their solution have been provided in the circular as tabulated below:-

Type of Error	Problem	Solution
Liability was under reported	Taxpayer while filing Return had inadvertently missed details of some outward supply.	They may report this additional liability in the return of next month and pay tax with interest.
Liability was over reported	Taxpayer has reported an inter-state sale twice.	They may reduce this liability in the return of subsequent month or claim refund of the same.
Liability was wrongly reported	Taxpayer had inadvertently, shown inter-State supply as intra-State supply.	Taxpayer will have to report inter-state supply in their next month's liability and adjust their wrongly paid intra-state liability in the subsequent months returns or claim refund of the same.
Input tax credit was under reported	Taxpayer had inadvertently misreported Input Tax Credit of Rs. 1,00,00,000/- as Rs.10,00,000/-.	Taxpayer may add such Input tax credit in their return for subsequent month(s).
Input tax credit was over reported	Taxpayer had inadvertently reported their eligible input tax credit, as Rs. 20,00,000/- instead of Rs. 10,00,000/-and has also utilized their additional input tax credit and filed their return.	Since, taxpayer had utilized ineligible credit to offset such liabilities, they will have to pay (through cash) / reverse such over reported utilized input tax credit with interest.
Input tax credit of wrong tax was taken	Taxpayer had inadvertently, reported their Central Tax Credit of Rs.20,00,000/- as Integrated Tax Credit. In order to avoid late fee and penalties, they paid Rs.20,00,000/- Central Tax in cash and did not utilize their Integrated tax credit.	Since, there is an unutilized Integrated tax credit of Rs.20,00,000/- which was inadmissible to them, they will have to pay/ reverse such credit in the return of subsequent month(s). Further, Central Tax credit of Rs.20,00,000/- can be availed in return of subsequent month(s).
Cash ledger wrongly updated	Taxpayer while generating challan added Rs.5,00,000/- under the Central Tax head, while they wanted to deposit Rs.5,00,000/- under the integrated tax head.	Since, they have already filed their challan, they will have to add Rs.5,00,000/- in their integrated tax head and file their returns. Further, they may seek refund of Rs.5,00,000/- from their cash ledger.

It is further clarified that the information furnished by the registered person in the return in FORM GSTR-3B would be reconciled by the department's system with the information furnished in FORM GSTR-1 and discrepancies, if any, shall be dealt with in accordance with the relevant provisions of the CGST Act, 2017 and rules made thereunder.

(Circular No. 26/26/2017-GST dated 29.12.2017)

Other Changes

- Date of submission of application would be effective date of registration. However, effective date may be earlier from the date of submission on the Commissioner's order.
- Specialised Agency of the UNO, any Multilateral Financial Institution and Organisation, Consulate or Embassy of foreign countries and other specified persons shall claim refund in GST RFD-10 every quarter, along with a statement of the inward supplies of goods or services or both in FORM GSTR-11.
- A person shall be granted refund of integrated tax paid on export of goods or services provided the said person have not received supplies on which the supplier has availed the benefit of deemed exports or such supplier provides goods or services at the rate of 0.05% (intra-state) or 0.1% (inter-state).

(Notification No. 75-CT dated 29.12.2017)

E-way Bill

E-way bill to be generated for inter-state movement of goods from 1st Feb, 2018.

(Notification No. 74-CT dated 29.12.2017)

Compliance Chart

Return	Category of Taxpayer	Time period	Due date
GSTR-3B	All taxpayers* to file along with payment of tax.	Every month till March 2018	20th of the succeeding month
GSTR-1	Taxpayers with annual aggregate turnover upto Rs 1.5 crore need to file on quarterly basis.	July-Sep 2017	10th January 2018
	Taxpayers with annual aggregate turnover more than Rs 1.5 crore need to file on monthly basis.	July-Nov 2017	10th January 2018
GSTR-4	Taxpayers who have opted for Composition Scheme to file every quarter.	Jul-Sep 2017	18th January 2018
GSTR-5	Non Resident Taxable Person to file every month.	Jul-Dec 2017	31st January 2018
GSTR-5A	Non Resident Foreign taxpayers who have come for a short period to make supplies in India to file by providing information online or through database access retrieval service.	Jul-Dec 2017	31st January 2018
ITC- 01	Claim of ITC on closing stock by newly registered tax payer during the period July-November.	One Time	31st January 2018

Payment	Due date
Due date for payment of tax for the month of December, 2017 for all assessee	20th January

Return	Late Fee	
	Nil Return	Other
Form GSTR – 3B	Rs. 20/day	Rs. 50/day
Form GSTR – 4	Rs. 20/day	Rs. 50/day

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