



Week of 29<sup>th</sup> January, 2018

## **A. CHANGES IN THE GST REGIME**

### **Budgetary impact on GST**

The Union Budget 2018-19 was presented by the hon'ble Finance Minister on Thursday, 2nd February, 2018. Unlike the previous years, the budget did not contain proposals on indirect taxes, other than proposals on customs and some proposals on excise duty leviable on petroleum products. In the words of the Finance Minister:

*“On the Indirect Taxes side, this is the first budget after the roll out of the Goods and Service Tax. Excise duties to a large extent and service tax have been subsumed in GST, along with corresponding duties on imports. Hence, my budget proposals are mainly on the customs side”*

However, the Finance Minister has proposed to change the name of the Central Board of Excise and Customs to Central Board of Indirect Tax and Customs. The necessary changes in the law for effecting the name change are proposed in the Finance Bill, 2018.

### **Extension of trial period of e-way bill**

As per the recommendation of the 24<sup>th</sup> GST Council meeting and the subsequent notifications issued in this regard, the national e-way bill system for inter-state movement of goods has been notified to be effective from 1<sup>st</sup> February, 2018. However, the e-waybill server was faced with serious technical setbacks and remained unresponsive on 1<sup>st</sup> February, 2018, leading to major disruptions for the suppliers and transporters to generate e-way bill. In light of technical glitches, the government has announced on its twitter handle @askGST\_Gol in the of 1<sup>st</sup> February, 2018 that “in view of difficulties faced by the trade in generating e-way bill due to initial tech glitches, it has been decided to extend the trial phase for generation of e-way bill, both for inter and intra-State movement of goods. It shall be made compulsory from a date to be announced.” However, till this time, no formal notification or order has been issued in this regard.

## **Maharashtra intra-state e-way bill**

While the national inter-state movement of goods has been notified to be effective from 1<sup>st</sup> February, 2018, the states were given the option of choosing the date from which the e-way bill with respect to intra-state movements will become applicable (Please refer to our GST Update Volume 27 for details). Pursuant to this, the Government of Maharashtra has notified that e-way bill in respect of movement of goods within the whole of the state of Maharashtra (i.e. intra-State movement) will not apply for the period starting from 1<sup>st</sup> February, 2018 and ending on 30<sup>th</sup> April, 2018. Thus, there will be no e-way bill for intra-State movement of goods within Maharashtra till 30<sup>th</sup> April, 2018. It may be noted that till now 13 states have notified the implementation of the e-way bill system for intra-state movement from 1<sup>st</sup> February, 2018<sup>1</sup>.

## **Reverse charge in case of renting of immovable property**

A notification has been issued by CBEC to notify that renting of immovable property by the Central Government, State Government, Union territory or local authority to a person registered under GST will be subject to reverse charge i.e. such registered person, being the recipient, will be liable to pay GST in relation to the renting services received by it instead of the supplier. However, where renting services are provided by the Central Government, State Government, Union territory or local authority to an unregistered person, the liability to pay GST will remain with the said government or local authority. It may be noted that this amendment is pursuant to the recommendations of the 25<sup>th</sup> meeting of the GST Council (Please refer to our GST Update Volume 29 for details).

## **Time of supply in case of construction services**

As per general industry practice, land owners transfer land development rights in favour of the builder or developer for the purpose of construction of immovable property in exchange of a fixed units in the constructed immovable property. In this case, two simultaneous supplies take place:

- (a) transfer of land development rights (TDR) by the owner to a builder/developer against consideration, wholly or partly, in the form of construction service; and
- (b) construction services by the builder/developer to the owner against consideration, wholly or partly, in the form of TDR,

Earlier, the liability to pay GST on these supplies (i.e. the time of supply of services) arose at the time when the consideration either in the form of TDR or construction services was received<sup>2</sup>. A notification has now been issued to defer the liability to pay GST in case of supply of TDR against consideration in the form of construction service and on construction service against consideration in the form of TDR to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (eg. allotment letter). However, there is no deferment in the GST payment liability in respect any cash received in case of such supplies. These will be payable at the time the cash is received.

## **GST rate on supply of scientific and technical equipments**

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<sup>1</sup> These States are Andhra Pradesh, Arunachal Pradesh, Bihar, Haryana, Jharkhand, Karnataka, Kerala, Pondicherry, Sikkim, Tamil Nadu, Telangana, Uttar Pradesh and Uttarakhand

<sup>2</sup> Section 13 of the CGST Act, 2017 prescribes the time of supply of services as, inter alia, the earliest of the following dates:—  
(a) the date of issue of invoice by the supplier or the date of receipt of payment, or  
(b) the date of provision of service, if the invoice is not issued within the period or the date of receipt of payment,

A notification has been issued by CBEC to provide a concessional GST rate of 2.5% in case of supply of specified scientific and technical equipments to a public funded research institution<sup>3</sup> (PFRI), a university (as defined) or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College, other than a hospital. Earlier, this reduced rate was applicable only to a PFRI.

### **FAQs on e-way bill**

A set of FAQs on the e-way bills, running into 19 pages, has been released by CBEC which clarifies various aspects relating to the e-way bill system such as registration or enrolment for the e-way bill, the persons eligible to generate the e-way bill, the manner of generating the e-way bill, the validity of e-way bills, cancelling e-way bills, rejecting e-way bills, consolidated e-way bills and other modes of generation of e-way bills. These FAQs are available at the government portal [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in).

## **B. PROPOSED CHANGES AND INDUSTRY ISSUES**

### **Single registration for certain service providers**

As per the erstwhile indirect tax regime, service tax was levied and collected by the central government and therefore the service providers required a single centralised registration. However, with the advent of GST, service providers are liable to obtain registration in every state from where they operate, provided their all-India aggregate turnover exceeds INR 2,000,000. Since each registration corresponds to a separate taxable person under GST, the compliance requirements of the service providers have increased manifold. Further, the assessing authorities under GST are a mix of central department and state department officials. Previously, the state departments were responsible for value added taxes and therefore they are not very conversant with the way the service industry works. The government is now considering introducing the system of single registration for certain service sectors like aviation, banking and insurance and will take up the matter before the GST Council. A common registration system, with a centralised filing of returns, will significantly cut compliance costs and complexities and will ensure that one assessing authority, possibly the central government who was administering service tax earlier will be responsible for a given service provider.

### **Glossary**

**CBEC- Central Board of Excise and Customs**

**CGST- Central Goods and Services Tax**

**GST Council- Goods and Services Tax Council, a constitutional body comprising of members of the Central and the State Governments to recommend changes under the existing GST regime.**

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<sup>3</sup> Public funded research institution" means a research institution in the case of which not less than fifty per-cent. of the recurring expenditure is met by the Central Government or the Government of any State or the administration of any Union territory

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