



Week of 1st July, 2019

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

### **Clarification on post sales discount under GST**

The CBIC has vide circular no. 105/24/2019-GST dated 28th June, 2019 provided clarification on various doubts related to treatment of secondary or post sales discounts under GST. The clarification relates inter alia to the following: -

- If the post-sale discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction. The post-sale discount would be considered as the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim ITC of the GST so charged by the dealer.
- If the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer's end, then the post sales discount given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject section 15 of the CGST Act.

### **Clarification on processing of refund applications**

The CBIC has vide Circular No. 104/23/2019-GST dated 28th June, 2019 issued a clarification on processing of refund application in the cases where application for refund in Form GST RFD-01A (submitted by taxpayers) has been electronically transferred to the wrong tax authority. It is clarified that in such cases, where reassignment of refund applications to the correct jurisdictional tax authority is not possible on the common portal, the processing of the refund claim should not be held up and it should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal. After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably on the common portal so that all subsequent refund applications are transferred to the correct jurisdictional tax authority.

### **Clarification in respect of determination of 'place of supply'**

The CBIC has vide Circular No. 103/22/2019-GST dated 28th June, 2019 issued a clarification in respect of determination of 'place of supply' in case of (1) services provided by ports in respect of various cargo handling services provided by ports to clients and (2) services rendered on goods temporarily imported in India. It is clarified that the services provided by ports are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in section 12(2) or section 13(2) of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services. Further, the clarification also provides that in case of performance based services place of supply is to be determined as per the provisions contained in section 13(3)(a) of the IGST Act and generally the place of services is where the services are actually performed. However, an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India. In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in section 13(2) of the IGST Act.

### **Clarification on applicability of GST on delayed payment charges**

The CBIC has vide Circular No. 102/21/2019-GST dated 28th June, 2019, issued a clarification regarding the applicability of GST on delayed payment charges being additional interest in cases where EMI is not paid at a scheduled time. This clarification has explained the applicability under two scenarios as under: -

- X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. However, X gives Y an option to pay in installments, Rs 11,000/- every month before 10th day of the following month, over next four months (Rs 11,000/- \*4 = Rs. 44,000/-). Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/penal interest amounting to Rs. 500/- per month for the delay. In view of the above, as per section 15(2)(d) of the CGST Act, the value of supply shall include "interest or late fee or penalty for delayed payment of any consideration for any supply". Therefore, the amount of penal interest is to be included in the value of supply and accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.
- X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd. allows Y a period of four months to repay the loan and an additional/penal interest at the rate of 1.25% per month for any delay in payment. In view of this scenario, as per Sl. No. 27 of notification No. 12/2017-Central Tax (Rate) dated the 28th June, 2017 "*services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services)*" is exempted. Therefore, the additional interest charged for a transaction between Y and M/s ABC Ltd. would not be subject to GST.

### **CGST (Fourth Amendment) Rules, 2019**

The CBIC has vide Notification No. - 31/2019-Central Tax dated 28th June, 2019 amended CGST Rules, 2017 by modifying some of the existing rules and also inserting new rules inter alia as follows: -(1) insertion of rule 10A relating to furnishing of bank account details in registration certificate, (2) insertion of rule 32A relating to value of supply where Kerala Flood Cess is applicable, (3) insertion of rule 87(13) relating to transfer of amount from one head to another in electronic cash ledger in FORM GST PMT-09.

## **Extension of due dates**

The CBIC has extended the due dates for certain forms as under: -

- The CBIC has vide notification no- 26/2019-Central Tax extended the due date for filing TDS return under GST in form GSTR-7 for the period October 2018 to July 2019 until 31st August, 2019.
- The CBIC has vide notification no- 27/2019-Central Tax extended the due date for filing details of outward supply in GSTR-1 by registered persons having a turnover of up to Rs 1.5 crore (15 million) in current or previous financial year for the period July 2019 to September 2019 until 31st October, 2019.
- The CBIC has vide notification no- 28/2019-Central Tax extended the due date for filing details of outward supply in GSTR-1 by registered persons having turnover of more than Rs 1.5 crores (15 million) in current or previous financial year for each month from July 2019 to September 2019 till 11th day of the month succeeding such month.
- The CBIC has vide notification no- 29/2019-Central Tax extended the due date for filing GSTR-3B by registered persons for each month from July 2019 to September 2019 till 20th day of the month succeeding such month.
- The CBIC has vide notification no - 32/2019-Central Tax extended the due date to file form GST ITC-04 for the goods or capital goods sent to a job worker for the period July 2017 to June 2019 until 31st August, 2019.
- The CBIC has vide Order No. 6/2019-Central Tax extended the due date of filing annual return in form GSTR-9 from 30th June, 2019 to 31st August, 2019 in view of technical problems being faced by the taxpayers while furnishing the same.

## **Exemption from filing GSTR 9 and GSTR 9C**

The CBIC has vide notification no - 30/2019 - Central Tax exempted suppliers supplying Online Information Database Access and Retrieval (OIDAR) services from a place outside to a person in India from filing Annual Return in form GSTR-9 and reconciliation statement in form GSTR-9C.

## **GST on goods supplied at international airports**

The CBIC has vide Notification No. 11/2019-Integrated Tax (Rate) exempted any supply of goods to an outgoing international tourist made by a retail outlets established in the departure area of international airports, beyond the immigration counters from payment of IGST along with cess. Further, the CBIC has specified the 'retail outlets' established at the departure area of international airports, beyond the immigration counters making exempt supply of goods to outgoing international tourists, as 'class of persons' who shall be entitled to claim refund of applicable central tax paid on inward supply of such goods. This notification would be effective from 1st July, 2019.

## **Procedure to claim refund by retail outlets at international airports**

The CBIC has vide Circular No. 106/25/2019-GST specified conditions, manner and procedure for filing and processing of refund claims of CGST, IGST, UTGST and compensation cess paid on inward supplies which are subsequently supplied to outgoing international tourists by retail outlets established at the departure area of international airports.

## **Proposed changes in GST by the Finance Bill 2019**

The central government has issued the Finance Bill 2019 on 5th July, 2019 which inter alia covers the following points: -

- 'Sabka Vikas Legacy Dispute Resolution Scheme, 2019' is proposed to be inserted which will help in resolution and settlement of legacy cases of central excise, service tax and other taxes.

- A proviso and an explanation is proposed to be inserted in section 22 of the CGST Act to provide for higher threshold exemption limit from Rs. 20 lakhs (2 million) to such amount not exceeding Rs. 40 lakhs (4 million) in case of supplier who is engaged in exclusive supply of goods.
- New sections 101A, 101B and 101C are proposed to be inserted in the CGST Act to provide for constitution, qualification, appointment, tenure, conditions of services of the National Appellate Authority for Advance Ruling (NAAAR); to provide for procedures to be followed for hearing appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more states or union territories in case of distinct persons; and to provide that the National Appellate Authority shall pass orders within a period of ninety days from the date of filing of the appeal respectively.
- Section 171 of the CGST Act is proposed to be amended so as to empower the National Anti- profiteering Authority to impose penalty equivalent to 10% of the profiteered amount.
- New sub-section is proposed to be inserted in section 25 of the CGST Act to make Aadhaar authentication mandatory for specified class of new taxpayers and to prescribe the manner in which certain class of registered taxpayers are required to undergo Aadhaar authentication.

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

### **GST collection of June 2019**

As per media reports, the GST collection for June 2019 has reduced compared to the earlier months of the current financial year being Rs 99,939 crore (Rs 999.39 billion). The gross GST collection stood at Rs 1,00,289 crore (Rs 1002.89 billion) in May 2019 and Rs 1,13,865 crore (Rs 1138.65 billion) in April 2019.

### **SMS system by GSTN**

As per media reports, apart from the alerts sent to authorized signatories now, the promoters, directors and proprietors of businesses are also getting SMS via GSTN system in case of default in payment of GST, filing of returns or mismatch in ITC claims by the business entities. This information is also shared by the system to the revenue department. This system is started to keep the promoters, directors and proprietors aware of discrepancy in GST compliances by the concerned person of their organization and to direct them to comply with the same.

### **Glossary**

<b>CBIC – Central Board of Indirect taxes and Customs</b>	<b>ITC – Input Tax Credit</b>
<b>CGST – Central Goods and Services Tax</b>	<b>IGST – Integrated Goods and Services Tax</b>
<b>GST – Goods and Services Tax</b>	<b>UTGST – Union Territory Goods and Services Tax</b>
<b>GSTR – Goods and Services Tax Return</b>	<b>SMS – Short Message Service</b>
<b>GSTN – Goods and Services Tax Network</b>	<b>EMI – Equated Monthly Instalment</b>
<b>RFD – Refund</b>	

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