



Week of 15th July, 2019

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

### **Extension of due date for furnishing FORM GST CMP-08**

The CBIC has vide notification no. 34/2019 – Central Tax dated 18th July, 2019 extended the due date to file Form GST CMP-08 containing details of payment of self-assessed tax for the quarter April 2019 to June 2019 from 18th July, 2019 to 31st July, 2019.

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

The CBIC has vide notification no. 33/2019 – Central Tax dated 18th July, 2019 issued amendment in CGST Rules, 2017 inter alia as follows: -

- Rule 12(1A) provided that a person applying for registration to collect tax in accordance with the provisions of section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in FORM GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A. This rule has been expanded to include a person applying for registration to deduct tax under section 51 of the CGST Act.
- Rule 46 on tax invoice has been amended to exclude registered supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens from the exemption to issue tax invoice under certain conditions.
- Rule 54(4A) has been inserted which provides that a registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the CGST Act, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46. The supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.
- Rule 83B has been inserted which provides for surrender of enrolment of GST practitioner. Accordingly, the format of FORM GST PCT 06 has been provided which is an application for cancellation of enrollment as GST practitioner.
- Rule 137 has been amended to extend the tenure of National Anti-Profiteering Authority by 2 years.

## **Clarification on supply of Information Technology enabled Services**

The CBIC has vide circular no. 107/26/2019-GST dated 18th July, 2019 provided clarification on various doubts related to applicability of GST on supply to overseas entity of Information Technology enabled Services (ITeS) such as call centre, business process outsourcing services, etc. with respect to the classification as (1) "intermediaries" or (2) "export of services". It has been clarified that the definition of 'intermediary' *inter alia* provides specific exclusion of a person who supplies such goods or services or both or securities on his own account. Therefore, the supplier of services would not be treated as 'intermediary' even where the supplier of services qualifies to be 'an agent/ broker or any other person' if he is involved in the supply of services on his own account. It is also provided that though ITeS is not defined under the GST law, interpretation can be made through the definition under the rule 10TA(e) of the Income-tax Rules, 1962 which includes back office operations, call centers, data processing and data mining, etc. It is also clarified that supplier of ITeS services, who is not an intermediary, can avail benefits of export of services if he qualifies for 'export of service' under section 2(6) of the IGST Act. In addition to the above, clarification is also provided by explaining three types of scenarios in the circular.

## **Clarification on charges by a Residential Welfare Association from its members**

The CBIC has vide circular no. 109/28/2019- GST dated 22nd July, 2019 issued clarification on doubts raised for GST applicability on monthly subscription/contribution charged by a Residential Welfare Association (RWA) from its members as follows: -

- The maintenance charges paid by residents to the RWA in a housing society is exempt from GST upto Rs. 7500 per month per member.
- If aggregate turnover of an RWA does not exceed Rs. 20 Lakh (Rs. 2 million) in a financial year, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds Rs. 7500 per month per member.
- RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.
- A person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7500 per month per member shall be applied separately for each residential apartment owned by him.
- The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed Rs. 7500 per month per member. In case the charges exceed Rs. 7500 per month per member, the entire amount is taxable. For example, if the maintenance charges are Rs. 9000 per month per member, GST @18% shall be payable on the entire amount of Rs. 9000 and not on Rs. 1500 (Rs. 9000 - Rs. 7500).

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

### **36th GST Council meeting**

The 36th GST Council meeting which was to be held on 25th July, 2019 through video conferencing has been postponed. This meeting had only one agenda which was to discuss the GST rate cut on e-vehicles from 12% to 5%.

### **Waiver of service tax / excise dues under amnesty scheme**

As per media reports, the Sabka Vikas (Legacy Dispute Resolution) Scheme introduced in the budget 2019 proposes to not only providing relief to the tax payers from interest and penalty but also to provide relief from the tax due itself unlike most tax amnesty schemes. This scheme is introduced with the intention to reduce pending litigation of some indirect taxes which are subsumed under GST and covers a waiver of up to 70% of tax dues under some cases.

## Glossary

**CBIC – Central Board of Indirect taxes and Customs**  
**CGST – Central Goods and Services Tax**  
**GST – Goods and Services Tax**  
**ITC – Input Tax Credit**  
**IGST – Integrated Goods and Services Tax**

**GST 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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