



Week of 22nd January, 2018

A. CHANGES IN THE GST REGIME

Policy changes in the GST regime

Pursuant to the recommendations of the 25th meeting of the GST Council, CBEC has issued the notifications to notify the following policy changes in the existing GST framework:

- Notifications have been issued to reduce the late fee for failure to furnish return in form GSTR-1 (outward supply return), return in form GSTR-5 (return to be furnished by a non-resident taxable person) and return in form GSTR-5A (return to be furnished by an OIDAR service provider) from INR 200 to INR 50 per day (INR 20 per day in case of nil returns). The late fee for failure to furnish return in form GSTR-6 by an input service distributor has also been notified as reduced to INR 50 per day.
- The portal www.ewaybillgst.gov.in has been notified as the common GST electronic portal for furnishing electronic way bill.

Amendment in the CGST Rules, 2017

The CBEC has notified the CGST (Amendment) Rules, 2018 to amend the CGST Rules, 2017 for the 14th time. The amendment prescribes the following changes:

- The value of supply, in case of betting and gambling, has been prescribed to be 100 % of the face value of the bet or the amount paid to the totalizator.
- Registered taxpayers, who are not liable to obtain registration under GST but have obtained voluntary registration, may apply for cancellation of registration even before the expiry of one year from the date of registration.
- Rate of composition levy has been revised as follows to be effective from 1st January, 2018:
 - (i) 0.5% of turnover in State / Union Territory in case of manufacturers;
 - (ii) 2.5% of turnover in State / Union Territory in case of restaurants; and
 - (iii)** 0.5% of turnover of taxable supplies of goods in State or Union Territory in case of any other suppliers,

Presidential assent to GST (Compensation to States) Act, 2017

The President of India has given his assent to the GST (Compensation to States) (Amendment) Act, 2017 (Compensation Amendment Act), after it was passed by both houses of legislature (Please refer to our GST Update Volume 26 for details). The Compensation Amendment Act seeks to replace the ordinance on GST Compensation Cess which was issued in September, 2017 and provides for an increase in the maximum rate at which the GST Compensation Cess could be collected on certain automobiles from 15% to 25%. After receiving the assent, the Compensation Amendment Act will be deemed to come into force retrospectively from 2nd September, 2017.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Simpler GST filing procedure

In the present system of return filing under GST, the GSTN is responsible for the reconciliation/matching of details in the outward supply return furnished by the supplier and the inward supply return furnished by the buyer. The reconciliation is important as the amount of input tax credit is restricted to the extent of the matching of the output and input supply details. In its last meeting held on 18 January, 2017, the GST Council discussed the changes required in the present system of return filing regime and worked out the details of a simpler GST return filing procedure. In the proposed system, the suppliers will have the option to upload invoice details on real time basis instead of filing details in their outward supply return within the prescribed due dates. The buyers will have the option to view the invoices uploaded by multiple sellers on the portal. Notably, the buyer will have to accept the invoices to claim credits and the credit will be restricted for the buyer to the extent of invoices accepted. Thus, the role of the GSTN for invoice matching and subsequent availability of input tax credit will be eliminated. The simplified system is expected to be approved by the Council in its next meeting.

GST on accommodation services

The Federation of Associations in Indian Tourism & Hospitality (FAITH) has made a representation to the Finance Ministry seeking certain changes in the existing GST provisions applicable to the tourism and hospitality industry. Some of the demands raised by the industry association are:

- Zero rating or a special rating of 5% on foreign exchange earnings for tourism/accommodation services. Presently, these services are not categorised as export of services as their place of supply is within India¹.
- Making the transaction value determinative for the rate categorisation of hotels instead of the declared tariff.
- Reducing the GST rate for hotels with declared tariff above INR 7,500 tariff from 28% to 18%;
- Extension of composition levy to travel agents and tour operators who are booking hotel accommodation or any other tourism products or tour packages at the rate of 2% (for business purposes) and 1.8% (for other than business purposes).

Likely deferment of the TCS provisions

The CGST Act, 2017 provides for collection of tax at source (TCS) at the rate of 1% by all electronic commerce operators on the net value of taxable supplies of goods or services made through it by other supplier. This provision was opposed by the electronic commerce industry citing that the TCS provision would result in a lock-in

¹ Export of services means the supply of any service when,–

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange;
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person

of capital and also dissuade firms from selling through e-portals. The CBEC had deferred the provisions of TCS till 1st April, 2018. As per media reports, the Law Committee of the GST Council has recommended further deferment of the TCS provisions for six more months in light of lack of IT infrastructure. A final decision on deferring the TCS further will be taken by the GST Council in its next meeting

Concerns over the electronic way bill system

The electronic way bill (e-way bill system)² was introduced in the GST regime in July 2017, but could not be implemented earlier as the required IT infrastructure was not in place. However, in sight of declining revenue collection, the CBEC had notified that the e-way bill mechanism would be rolled out on trial basis from 16th January, 2018 throughout the country and will be implemented from 1st February 2018 (Please refer to our GST Update Volume 27 for details). Flexibility was given to states to adopt their individual dates for e-way bills in case of intra-state supplies, however not later than 1st July 2018. Till date, 15 states have notified the implementation of the intra-state e-way bill from 1st February, 2018, along with the inter-state implementation of the e-way bill. The e-way bill system seems to be an electronic version of the waybill system which existed earlier under the garb of road permits, entry/exit permits and challans in many states for many years. However, under GST, these bills have taken an electronic form. Concerns are being raised on the readiness of the IT network to handle large volumes of e-way bills being generated in course of every day trade, particularly in wake of the inability of the system in handling the GST returns. There are also perceived chances of corruption with the authorities trying to stop the supply on the pretence of deficiencies of the e-way bill. Unpreparedness in trade and the logistics partners further aggravates the case against e-way bills. However, even with all these concerns, the government is unlikely to defer its plans to implement the e-way bill system.

Glossary

CBEC- Central Board of Excise and Customs

CGST- Central Goods and Services Tax

GSTN- Goods and Services Tax Network

IT- Information Technology

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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² The e-way bill is a system generated bill which a transporter has to carry, in specified cases, to move the goods from one place to another. These electronic bills can be generated from the GSTN portal.