

Week of 20<sup>th</sup> August, 2018

## A. CHANGES IN THE GST REGIME

### Extension of due date for filing GSTR 3B for July 2018

The CBIC vide notification no. 34/2018 central tax dated 10th August, 2018 had notified the due date for filing GSTR 3B (monthly return) for each of the months of July 2018 to March 2019 on or before 20th of the month succeeding such month for all registered persons. The CBIC vide notification no. 35/2018 central tax dated 21st August, 2018 has extended the due date for the month of July, 2018 to 24th August, 2018.

### Extension of due date for filing GST returns by certain taxpayers

The government has issued a press release in order to extend the due date for filing the GST returns by taxpayers in Kerala, Mahe (Puducherry) and Kodagu (Karnataka). The following table provides the extended due dates for the specified GST returns:-

GST Return	Extended due date
FORM GSTR 3B for the month of July, 2018	5th October, 2018
FORM GSTR 3B for the month of August, 2018	10th October, 2018
FORM GSTR 1 for the quarter July to September, 2018 (Taxpayers having turnover up to INR 1.5 crore (15 million))	15th November, 2018
FORM GSTR 1 for the month of July, 2018 (Taxpayers having turnover above INR 1.5 crore (15 million))	5th October, 2018
FORM GSTR 1 for the month of August, 2018 (Taxpayers having turnover above INR 1.5 crore (15 million))	10th October, 2018

### Constitution of Standing Committee

The CBIC GST policy wing has issued Order no. 3/2018 central tax dated 16th August, 2018 which constituted the standing committee to make recommendations for proper utilisation of money credited to consumer welfare fund (CWF) for welfare of consumers under rule 97(4) of the CGST Rules, 2017.

### **Apply before nodal officer on failure to upload returns on time due to system error**

The applicant had failed to upload Form GST TRAN-1 because of some system error. The applicant filed a writ petition to the Kerala High Court seeking directions to enable him to upload the returns. It was observed that the government of India had issued Circular No. 39/13/2018-GST dated 3rd April, 2018 for setting up an IT grievance redressal mechanism to address the grievances of taxpayers due to technical glitches on GST Portal. Paragraph 5 of the Circular outlines the procedure the Nodal Officer is to follow. The Kerala High Court held that where the applicant had failed to upload returns because of some system error, the applicant is directed to apply to Nodal Officer in this regard, who would look into the issue and facilitate the applicant for uploading returns.

### **Withdrawal of writ to approach IT Grievance Redressal Mechanism**

The applicant filed writ petition before the Bombay High Court seeking relief in regard to IT glitches or general issues pertaining to GST portal. Subsequently assessee relying upon Circular No. 39/13/2018 - GST dated 3rd April, 2018 issued for setting up an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST Portal prayed to the Bombay High Court that it may be allowed to withdraw writ petition with liberty to approach before IT Grievance Redressal Mechanism. The Bombay High Court allowed the applicant to withdraw the writ petition with liberty to approach before the IT Grievance Redressal Mechanism.

### **Payment of tax and penalty for release of goods via GST portal**

The applicant is a dealer registered under the CGST Act. The competent authority had detained the goods of the applicant under transport and issued on it a show cause notice under section 129(3) of the CGST Act demanding tax and penalty. The provision of section 49 of the CGST Act provides that the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees and so on. The applicant had paid the amount of tax and penalty through the GST portal as per section 49 of the CGST Act. The revenue contended that the provision contained in section 17(5)(i) provides that if a dealer pays tax under sections 74, 129 and 130, that dealer may not be entitled to input tax credit. The applicant submitted that if at all, in terms of section 17(5), it is not entitled to input tax credit, it can as well use the amounts lying to its credit for other purposes. To the extent it has paid the amount, it stands discharged from the obligation under section 129 of the CGST Act. The Kerala High Court held that the competent authority's insistence that the applicant should pay the amount of tax and penalty either in cash or through demand draft cannot be sustained. Therefore, the competent authority was directed to release the goods after receiving receipt of payment from the applicant.

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

### **GST on freebies**

Freebies became liable to tax as the GST rolled out. However, input tax credit was denied on the free samples / additional quantities/ freebies. Many companies stopped offering freebies whereas others received tax notices. As per the media report, a panel of officials under the GST Council has favoured doing away with GST on freebies. The final call on this issue is yet to be taken by the GST Council.

### **GST on petrol and diesel**

Under the GST ambit, five petro-products being petrol, diesel, crude oil, natural gas, and aviation turbine fuel (ATF) were kept out of its purview for the time being. It has been observed that there is a need to bring them under GST at the earliest to deal with volatility in prices. However, as per the media reports, no GST will be

levied on petrol and diesel in the near future as neither the central government nor any of the states are in favour to bring them under the purview of GST on fears of heavy revenue loss.

## **Glossary**

**CBIC- Central Board of Indirect Taxes and Customs**  
**CGST- Central goods and Services Tax**  
**GSTR - Goods and Services Tax Return**

**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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