

Week of 14th August 2017

## Extension of time limit for furnishing GSTR-3B

The time limit for furnishing the return GSTR- 3B [1] for the month of July, 2017 has been extended from 20th August, 2017 to 28th August, 2017. The extended time limit is only for those taxpayers, who wish to use the opening balance of transitional credit [2] in the current month by filing form GST TRAN-1[3] on or before the 28th August, 2017. The time limit continues to be 20th August, 2017 for those taxpayers who do not wish to claim opening credit in the current month or those who have no credit. The extended deadline also allows the taxpayers to file form GST TRAN-1 by 28th August, 2017 which is a pre requisite as per the strict interpretation of law to claim the opening balance of transitional credit.

### Central Goods and Services Tax (Fifth Amendment) Rules, 2017

The CGST (Fifth Amendment) Rules, 2017 have been notified which bring out, inter alia, the following amendments in the CGST Rules, 2017:

- The time limit for furnishing the prescribed details by a person, who has been granted registration on provisional basis and has opted for composition levy, has been extended from 60 days to 90 days from the date on which the option for composition levy has been exercised.
- Manner of reversal of credit of additional duty of customs in respect of gold dore bar has been prescribed.
- Application form for grant of Unique Identity Number (UIN) to United Nation bodies or embassies (GST REG-13) has been prescribed.

# Clarification regarding bond and letter of undertaking

A circular has been issued by CBEC to clarify various issues regarding furnishing of a bond or letter of undertaking. It may be noted that a bond or letter of undertaking is to be furnished by such exporters who wish to export without payment of IGST. The circular clarifies, inter alia, the following:

- Only such exporters are eligible to furnish a letter of undertaking who have received a minimum foreign inward remittance of Rs. 10,000,000 or 10% of export turnover, whichever is higher, in the previous financial year. For example:
  - **a.** An exporter has an export turnover of Rs. 200,000,000. He has received Rs. 8,000,000 as foreign inward remittances in the financial year 2016-17 which is 40% of the export turnover. He will not be eligible as remittance received is less than Rs. 10,000,000.
  - **b.** An exporter has export turnover of Rs. 400,000,000. He has received Rs. 20,000,000 as foreign inward remittances in the financial year 2016-17 which is 5% of the export turnover. He will not be eligible as remittance received is less than 10% of export turnover, even though it is in

excess of Rs. 10,000,000.

- A bond is to be furnished on non-judicial stamp paper, while a letter of undertaking is to be submitted on the letterhead containing signature and seal of the person eligible to furnish such letter of undertaking or the person authorized in this behalf.
- The bond or letter of undertaking will be accepted within a period of three working days from the date of submission of the same.
- The CT-1 form which was earlier used for purchase of goods by a merchant exporter from a manufacturer without payment of central excise duty holds no relevance under GST since transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST even on submission of bond or letter of undertaking.
- Supplies to export-oriented undertakings (EOUs) are not deemed exports under GST, unlike the earlier regime and therefore are taxable just like any other taxable supplies.
- Furnishing of letter of undertaking in place of bond will be permissible for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit irrespective of whether the payments are received in Indian currency or convertible foreign exchange as long as they are in accordance with applicable RBI guidelines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

### FAQs on food processing

The CBEC has issued yet another set of FAQs on its twitter handle @CBEC\_India. It may be noted that the legal validity of these FAQs remain uncertain. The FAQs clarify, inter alia, the following

- In case of any supply made from the non air-conditioned portion of a restaurant having the facility of air-conditioning in any part of its premise, GST will be levied at 18%. Rate of 18% will also be applicable on the supplies made from the take-away counters of such restaurant. Therefore, the rate of 12% will apply only to purely non air-conditioned restaurants.
- Restaurants engaged in supply of foods and non-alcoholic drinks are eligible to avail of a composition scheme. However, restaurants serving alcoholic liquor for human consumption along with such food and drinks are not eligible for the composition scheme.
- The rate of tax on cold drinks (non-alcoholic beverages) and ice-cream supplied along with food will be 12% when supplied in a non air-conditioned restaurant and 18% when supplied from an airconditioned restaurant.

# Tweet FAQs on registration

The tweets received by the government twitter handle askGST\_GoI have been scrutinized and developed into FAQs. It has been clarified that the tweets received or the replies quoted are only for educational and guidance purposes and do not hold any legal validity.

- Taxpayers, who have applied for new registration under GST and have not received their GST Identification Number (GSTIN) and/or application receipt number (ARN), can supply goods or services on invoice without mentioning the GSTIN and/or ARN. On receipt of GSTIN, revised invoices mentioning GSTIN will need to be issued. Further, such invoices must be reflected in the respective returns and tax must be paid thereon.
- Taxpayers, who have migrated to GST and received their provisional ID but not the GSTIN, can supply goods or services specifying their provisional ID in place of GSTIN on their invoice.
- Taxpayers, who were earlier registered under any of the existing laws but could not migrate to GST and instead have applied for new registration, will be eligible for transitional credit if they have provided details of their earlier registration(s) at the time of registration under GST.

## **FAQs** for traders

A set of FAQs for the trading community has been released on the CBEC website <a href="www.cbec.gov.in">www.cbec.gov.in</a>. These FAQs clarify the issues regarding, inter alia, registration, composition scheme, returns, stock transfers, availability and utilisation of credit, payment of GST and invoicing requirements as may be applicable to traders.

# Budgetary support to eligible units approved

The Cabinet Committee on Economic Affairs chaired by the Prime Minister has given its approval to the scheme to provide budgetary support under GST Regime for the period of 1st July, 2017 to 31st March, 2027 to the eligible industrial units located in state of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim which were earlier availing the benefit of central excise exemption under the North East Industrial and Investment Promotion Policy (NEIIPP), 2007 and Package for Special Category States scheme. Under the approved scheme, the Government has decided to accord budgetary support by refunding the share of CGST and IGST to the affected eligible industrial units till the period of expiry of the scheme. The Department of Industrial Policy and Promotion is expected to notify the above scheme, including detailed operational guidelines for implementation of the scheme within 6 weeks.

## **Glossary**

CBEC- Central Board of Excise and Customs	CGST- Central goods and service tax
IGST- Integrated goods and service tax	FAQs- frequently asked questions
SEZ- Special economic zones	RBI- Reserve Bank of India

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<sup>[1]</sup>GSTR-3B is return to be furnished in a month in lieu of the corresponding monthly return in form GSTR-3 when time limit of furnishing the returns related to outward and inward supplies has been extended for the said month.

<sup>[2]</sup>Transitional credit refers to eligible input tax credit accumulated under the erstwhile laws and brought forward in the GST regime.

<sup>[3]</sup> Every registered person entitled to take transitional credit has to submit the details of the same in form GST TRAN-1.