

RECENT UPDATES IN GST

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Press note – Decisions taken by GST Council in 32nd Meeting held on 10th January, 2019.

Composition Scheme – Limit Increased – 1 Cr To 1.5 Cr for Goods.

The limit of **Annual Turnover** in the **preceding Financial Year** for availing Composition Scheme for **Goods** shall be **increased to Rs.1.5 crore.**

Special category States would decide, **within one week**, about the Composition Limit in their respective States.

Press note – Decisions taken by GST Council in 32nd
Meeting held on 10th January, 2019.

Compliance Simplification:

The compliance under Composition Scheme shall be **simplified**

They would need to file **one Annual Return, but Payment of Taxes** would remain **Quarterly** (along with a **simple declaration**).

Press note – Decisions taken by GST Council in 32nd
Meeting held on 10th January, 2019.

Higher Exemption Threshold Limit for Supplier of Goods:

There would be two Threshold Limits for exemption from Registration and Payment of GST for the suppliers of **Goods** i.e. **Rs 40 lakhs** and **Rs 20 lakhs**.

States would have an option to decide about one of the limits within a weeks' time.

The Threshold for Registration for **Service Providers** would **continue to be Rs 20 lakhs** and in case of **Special Category States** at **Rs 10 lakhs**.

Press note – Decisions taken by GST Council in 32nd
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Composition Scheme for Services:

There A Composition Scheme shall be made available for Suppliers of Services (or Mixed Suppliers).

with a Tax Rate of **6% (3% CGST +3% SGST)** having an **Annual Turnover in the preceding Financial Year up to Rs 50 lakhs.**

The said Scheme Shall be applicable to **both Service Providers as well as Suppliers of Goods and Services,** who are **not eligible** for the presently available Composition Scheme for Goods.

Press note – Decisions taken by GST Council in 32nd
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Effective date:

The decisions above shall be made operational from the **1st of April, 2019.**

Free Accounting and Billing Software

Free Accounting and Billing Software shall be provided to Small Taxpayers **by GSTN.**

Press note – Decisions taken by GST Council in 32nd
Meeting held on 10th January, 2019.

Matters referred to Group of Ministers:

- A seven Member Group of Ministers shall be constituted to examine the proposal of giving a Composition Scheme to Boost the **Residential Segment of the Real Estate Sector.**
- A Group of Ministers shall be constituted to examine the **GST Rate Structure on Lotteries.**

**Press note – Decisions taken by GST Council in 32nd
Meeting held on 10th January, 2019.**

Revenue Mobilization for Natural Calamities:

- **GST Council approved Levy of Cess on Intra-State Supply of Goods and Services within the State of Kerala at a rate not exceeding 1% for a period not exceeding 2 years.**

CIRCULARS

Circular No. 76/50/2018-GST dated December 31, 2018)

Clarification on Certain Issues

- Sale by Govt. Departments to **unregistered person**;
- Leviability of **Penalty under section 73(11)** of the CGST Act;
- **Rate of tax** in case of **debit notes / credit notes** issued under section **142(2)** of the CGST Act;
- applicability of notification **No. 50/2018-Central Tax**;
- **valuation methodology** in case of TCS under Income Tax Act
- and definition of **owner of goods**.

Circular No. 76/50/2018-GST dated December 31, 2018)

Clarification on Certain Issues

Issue 1– Whether supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Govt. departments are taxable under GST.

Clarification 1– Vide Notification No. 36/2017 Central Tax (Rate) ,it has been notified that such supplies to a regd. Person would be subject to GST on RCM basis. And tax is payable by recipient.

But what about if such goods are sold to unregistered person.

It is clarified that in such a case the Govt. department shall be liable to get registered. And pay GST.

Circular No. 76/50/2018-GST dated December 31, 2018)

Clarification on Certain Issues

Issue 2– Whether **penalty** under **section 73(11)** of CGST Act should be levied where **GSTR 3B** has been **filed late**.

Clarification 2

u/s 73(11) penalty is payable if Tax has not been paid **within 30 days from the due date of payment**. Section 73 is **not generally invoked** incase of delayed filing of return in GSTR 3B **because tax along with interest has already been paid** after the due date.

Circular No. 76/50/2018-GST dated December 31, 2018)

Clarification on Certain Issues

It is accordingly clarified that penalty u/s 73(11) is not payable in such cases.

However, since tax has been paid late, **general penalty u/s 125** may be imposed which may **extend to Rs. 25000/- after following the due process of Law** i.e. after issuing a show cause notice and hearing the tax payer.

There may be **reasons where delay is genuine** like technical glitches etc.

Circular No. 76/50/2018-GST dated December 31, 2018)

Issue 3– In case a dr note u/s 142(2)(a) or Cr note u/s 142(2)(b), what will be the tax rate applicable.

Clarification 3 – If any dr or Cr note are issued for revision of prices after 01/07/ 2017, it shall be deemed to have been issued in respect of an outward supply under CGST Act.

Accordingly, the rate as per GST Act, i.e. C+S or IGST will be applicable.

Circular No. 76/50/2018-GST dated December 31, 2018)

Issue 4 - Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of notification No. 50/2018 – Central Tax dated 13.09.2018.

Clarification 4 –

The provisions of section 51 of CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or State legislature or established by any Govt. in which 51% or more participation by way of Equity or control is with the Govt.

Circular No. 76/50/2018-GST dated December 31, 2018)

Issue 5 – What is the correct **valuation methodology** for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?

Clarification 5 - It is clarified that as per section **15(2)** of CGST Act, the **taxable value** includes any **tax, duty, Cess** other than CGST, SGST and IGST. Therefore, taxable value will include TCS collected under Income Tax Act for the purpose of GST.

Circular No. 76/50/2018-GST dated December 31, 2018)

Issue 6 – Who will be considered as the ‘owner of the goods’ for the purposes of section 129(1) of the CGST Act?

Clarification 6 - If the invoice or any other specified document is accompanying the consignment of Goods, then either the consigner or consignee should be deemed to be owner.

If not, the proper officer should determine who should be declared as the owner of goods.

Circular No. 77/51/2018-GST dated December 31, 2018

Denial of Composition Option by Tax Authorities and Effective Date thereof

- It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in FORM GST CMP-04
- but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed.

Circular No. 77/51/2018-GST dated December 31, 2018

If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty.

In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules.

Circular No. 78/52/2018-GST dated December 31, 2018

Clarification on Export of Services Under GST

It is clarified that the **supplier of services located in India** would be **liable** to pay **integrated tax on reverse charge basis** on the import of services on that portion of services

which has been **provided by the supplier located outside India** to the recipient of services located outside India.

Furthermore, the **said supplier of services located in India** would be **eligible** for taking **input tax credit of the integrated tax so paid**.

Circular No. 78/52/2018-GST dated December 31, 2018

Clarification on Export of Services Under GST

Thus, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services),

that portion of the consideration **shall also be treated as receipt of consideration for export of services** in terms of section 2(6)(iv) of the IGST Act, **provided the:**

Circular No. 78/52/2018-GST dated December 31, 2018

Clarification on Export of Services Under GST

(i) integrated tax has been paid by the supplier located in India for import of services on that portion of the services which has been directly provided by the supplier located outside India to the recipient of services located outside India;

(ii) and RBI by general instruction or by specific approval has allowed that apart of the consideration for such exports can be retained outside India.

Circular No. 79/53/2018-GST dated December 31, 2018

Clarification on Refund Related Issues

Due to the non-availability of the complete electronic refund module, circulars 17/17/2017-GST dated 15-11-2017 and circular No.24/24/2017-gst dated 21.12.2017 were issued prescribing manual filing of refund application after filing RFD-01A through online.

Circular No. 79/53/2018-GST dated December 31, 2018

Clarification on Refund Related Issues

In order to further simplify the refund process, the following instructions are issued:

- all documents/undertaking/statements to be submitted along with the claim for refund in FORM GST RFD-01A shall be uploaded on the common portal at the time of filing of the refund application.
- Neither the application in FORM GST RFD-01A, nor any of the supporting documents, shall be required to be submitted physically in the office of the jurisdictional proper officer.

Circular No. 79/53/2018-GST dated December 31, 2018

- **Only the method** of submission of these documents/statements/undertakings/invoices **is being changed** from the **physical mode to the electronic mode.**
- It may also be noted that the other stages of processing of a refund claim submitted in FORM GST RFD-01A by the jurisdictional tax officer **shall continue to be carried out manually** for the time being, as is being presently done.
- **However,** the taxpayer **still have the option** to physically submit the refund application to the officer along with supporting documents.

Circular No. 79/53/2018-GST dated December 31, 2018

Refund on account of inverted duty structure

Calculation of refund amount for claims of refund of accumulated Input Tax Credit (ITC) on account of inverted duty structure:

- Where there are **multiple inputs** attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules,
- the term “Net ITC” covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

Circular No. 79/53/2018-GST dated December 31, 2018

Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices:

All refund applications in which the amount **claimed is less than the statutory limit of Rs. 1,000/-** should be rejected and

the **amount re-credited** to the electronic credit ledger of the applicant through the issuance of **FORM GST RFD-01B**.

For all applications wherein an **amount greater than Rs. 1000/-** has been claimed, a **list of applications** which have **not been received** in the jurisdictional tax office **within a period of 60 days** starting from the date of generation of ARN may be compiled.

Circular No. 79/53/2018-GST dated December 31, 2018

Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices:

A **Communication** may be sent to all such claimants on their registered email id to submit application physically **within 15 days** failing which the application shall be summarily rejected and amount shall be re-created to the electronic credit ledger.

Direction has been issued to all tax authorities to issue final sanction order **within 45 days** of generation of ARN so that disbursement of **refund is completed within stipulated period of 60 days.**

Circular No. 79/53/2018-GST dated December 31, 2018

It is also **clarified** that **packing materials, materials purchased for machinery repairs, printing and stationary items** shall be treated as **inputs** and will be **considered** for calculating Net ITC while filing **refund claim**.

Acknowledgment is to be issued **within 15 days** from the date of **generation of ARN** based on the **documents so received electronically** from the common portal.

If the taxpayer is required to submit the **rectified refund application** after issue of a **deficiency memo**, the same will be **submitted manually with the proper officer**.

Circular No. 79/53/2018-GST dated December 31, 2018

Issues related to refund of accumulated Input Tax Credit of Compensation Cess on account of Zero rated supplies made under LUT:

Vide Circular No. 45/19/2018- GST dated 30.05.2018, It was clarified that refund of ITC of compensation cess on account of exports made under LUT is available even if there is no cess on exported products.

Refund on account of compensation cess is to be recomputed, as if the same was available, in the respective months

in which the refund of unutilized credit of CGST/SGST/UTGST/IGST was claimed on account of exports made under LUT/Bond.

Circular No. 79/53/2018-GST dated December 31, 2018

Issues related to refund of accumulated Input Tax Credit of Compensation Cess on account of Zero rated supplies made under LUT:

If the aggregate of these recomputed amounts of refund of compensation cess is less than or equal to the eligible refund of compensation cess calculated in respect of the month in which the same has actually been claimed,

then the aggregate of the recomputed refund of compensation cess of the respective months would be admissible.

Circular No. 79/53/2018-GST dated December 31, 2018

Issues related to refund of accumulated Input Tax Credit of Compensation Cess on account of Zero rated supplies made under LUT:

Further, the recomputed amount of eligible refund (of compensation cess) in respect of past periods, as aforesaid, would not be admissible in respect of consignments exported on payment of IGST.

This process would be applicable for application for refund of compensation cess (not claimed earlier) in respect of the past period.

Circular No. 79/53/2018-GST dated December 31, 2018

Refund of accumulated ITC of input services and capital goods arising on account of inverted duty structure:

It is clarified that **both the law and the related rules** clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted duty structure.

Circular No. 87/07/2019-GST dated 2nd January, 2019

Clarification regarding retrospective amendment in section 140(1) of the CGST Act, 2017 to allow transition credit of CENVAT credit of 'eligible duties':

It is clarified by the department that the CENVAT credit of service tax paid under section 66B of the Finance Act, 1994 was available as transitional credit under section 140(1) of the CGST Act and that legal position has not changed due to amendment of section 140(1).

REMOVAL OF DIFFICULTY ORDERS

Order No. 2/2018- Central Tax - 31st December, 2018

ITC for 2017- 18 can be claimed – till the due date of return for March 2019.

In sub-section (4) of section 16 of the said Act, the following proviso shall be inserted, namely: -

“Provided that the registered person shall be **entitled to take input tax credit** after the due date of furnishing of the return under section 39 for the month of September, 2018 **till the due date** of furnishing of the return under the said section for the **month of March, 2019**

Order No. 2/2018- Central Tax - 31st December, 2018

in respect of **any invoice** or invoice relating to **such debit note** for supply of goods or services or both made during the **financial year 2017-18**, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of **March, 2019**”.

Order No. 2/2018- Central Tax - 31st December, 2018

Rectification of errors can be done - till the due date of return for March 2019.

In sub-section (3) of section 37 of the said Act, after the existing proviso, the following proviso shall be inserted, namely: —

“Provided further that the **rectification of error** or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018

till the due date for furnishing the details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.”.

Order No. 3/2018- Central Tax - 31st December, 2018

Annual Return – Date extended to 30.06.2019

In section 44(**Annual Return**) of the Central Goods and Services Tax Act, 2017, in the Explanation, for the figures, letters and word “31st March, 2019”, the figures, letters and word “**30th June, 2019**” shall be substituted.

NOTIFICATIONS

Notification No.73/2018

Seeks to exclude the supplies between Government Departments and PSUs to other Government departments from the application of provision relating to tax deduction at source

Notification No.74/2018

Amendment to CGST Rules

Notification No.75/2018

Where GSTR-1 for the period from July 2017 till september 2018 was not filed, but filed between the dates 22-12-2018 – 31-03-2019, the late fee would be waived

Notification No.76/2018

Where GSTR-3B for the period from July 2017 till september 2018 was not filed, but filed between the dates 22-12-2018 – 31-03-2019, the late fee would be waived.

For assessee who have already filed belatedly, the late fee is reduced to Rs.25/- per day of default, except in case of nil returns, which is Rs.10/- per day of default

Notification No.77/2018

Where GSTR-4 for the period from July 2017 till september 2018 was not filed, but filed between the dates 22-12-2018 – 31-03-2019, the late fee would be waived.

Notification No.78/2018

Time limit to file GST ITC-04 (Job work return) for the period from July 2017 to December 2018, is extended to 31.03.2019



Thank You