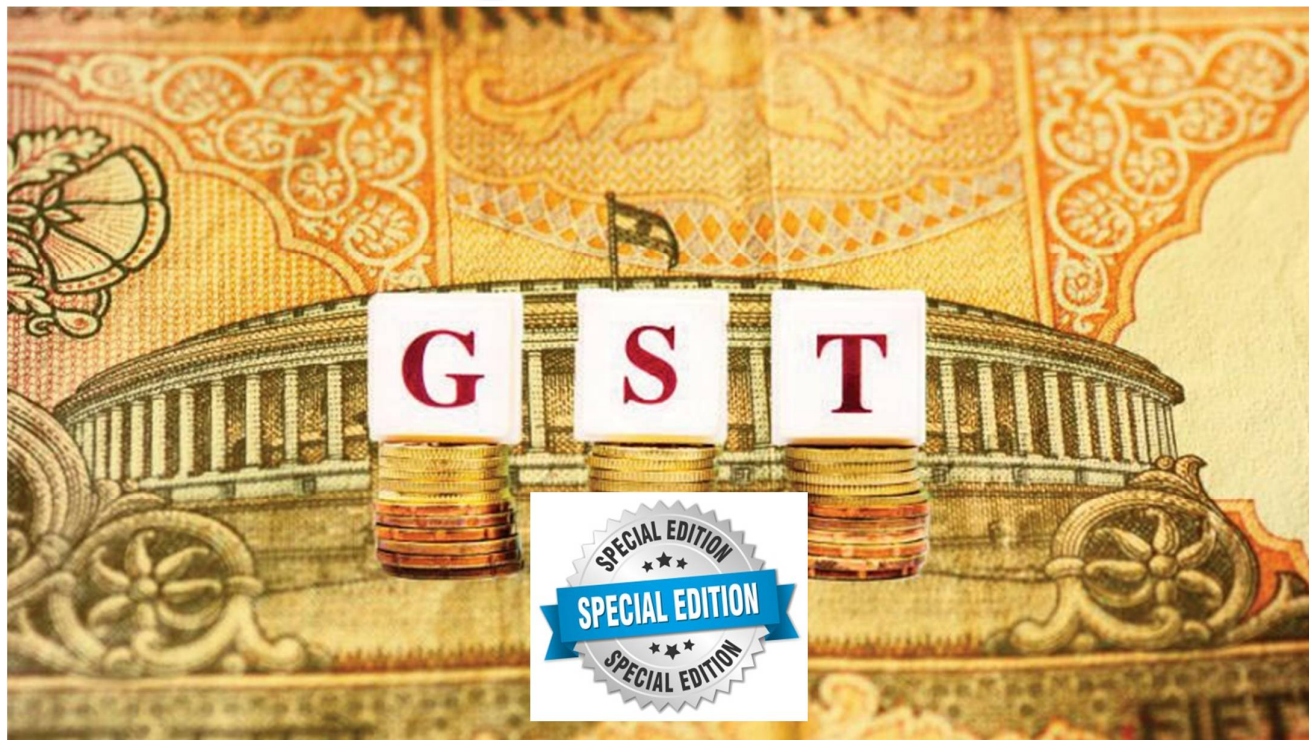


# eMagazine



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<http://www.groups.google.com/group/csmysore>

Dear Professional Colleagues,

Warm greetings!

Major tax reforms have taken place in the Indian history in the form of GST. At last the GST is implemented from 1<sup>st</sup> July onwards. Now we can expect a positive growth in the Indian economy as well as in the industry sectors. I request all the CS Members to utilize the new opportunities available in the GST.

During the month of June 2017 Chapter celebrated the PCS Day and also conducted two career awareness programs.

The CS foundation result has once again proved our Chapters strength as the pass percentage was around 43%. Hope this will grow further. Best wishes to all students who have cleared the exams. Better luck for those who could not clear this time.

Thank you

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# Chapter Activities

## 1. Career Awareness Program

Chapter has conducted two career awareness programs during the month. The details are as follows.

S No	Date	College Name	Addressed By	No of Participants
1	16.06.2017	St. Joseph's PU College	CS Manjunath S	110
2	22.06.2017	St. Joseph's Degree College	CS Manjunath S	150

## 2. PCS Day Celebrations

Celebration of PCS Day on 15<sup>th</sup> June 2017 was organised between 4.00 pm to 7.00 pm at the Chapter premises. Members and students participated in the celebrations.

The Vice Chairperson of the Chapter CS Pracheta M. welcomed the members and highlighted the importance of Company Secretary in the present corporate environment and the role of PCS. The Secretary of the Chapter CS Manjunath S. presented the presentation on Recognitions secured for PCS-Joyful journey since 15<sup>th</sup> June 1988.

CA Vageesh Hegde, Practising Chartered Accountant from Mysore handled a session on **"GST an overview"** and also explained the new opportunities available for the CS members in the act. The members and students participated in the session actively.

The celebrations were concluded by cutting the cake, followed by high tea.







## GST Rules for Non AC Restaurants

A non-air conditioned restaurant not having a license to serve liquor can pay GST in two ways:

**Regular Scheme:** Collect GST @12% from customers and take input credit on inputs used in the business

**Composition Scheme:** Pay a flat rate of 5% on turnover. Dealer cannot recover GST from customer and is not eligible to take input credit on inputs used in the business. This scheme is available to dealers whose turnover is less than Rs 50 lakhs per year.

Let us see which scheme is beneficial to the dealers

### Composition Scheme:

Section 10 of the CGST Act:

A restaurant whose annual turnover does not exceed Rs 50 lakhs can opt for COMPOSITION SCHEME. The dealer can opt for this scheme at the beginning of the year.

The dealer has to pay a flat rate of 5% on the annual turnover subject to the below two conditions

- Dealer should not recover this tax from the customer. In other words, this tax cannot be charged to customer in the invoice. Customer will get an invoice for the food consumed without any additional taxes
- Dealer cannot take input credit for the inputs purchased relating to the restaurant business

Let us assume that a restaurant has turnover of Rs 20 lakhs, GST payable @ 5% is Rs 100,000. Assume that to generate this sale, dealer purchases inputs for Rs 10 lakhs on which he pays GST @ 5% amounting to Rs 50,000, this GST paid would become part of the cost of operations since the dealer cannot take input credit for this tax. He cannot take input credit since the dealer opted for COMPOSITION SCHEME

This is illustrated in the below tables

GST payable on sales

Turnover	Rs 20,00,000
----------	--------------

GST @ 5%	Rs 1,00,000
----------	-------------

GST paid on inputs

Inputs purchased	Rs 10,00,000
GST @5%	Rs 50,000

Total cash outflow

Cash outflow on GST paid on sales	Rs 1,00,000
Cash outflow on GST paid on inputs	Rs 50,000
Total cash outflow	Rs 1,50,000

### Regular Scheme: (where input credit is allowed)

GST applicable for a non-air conditioned restaurant without liquor license is 12%. This tax can be offset by the GST paid on inputs

Let us take the same example as in COMPOSITION SCHEME

Let us assume that a restaurant has turnover of Rs 20 lakhs, GST payable @ 12% is Rs 240,000. This can be recovered from the customer. Assume that to generate this sale, dealer purchases inputs for Rs 10 lakhs on which he pays GST @ 5% amounting to Rs 50,000.

Dealer is allowed to take input credit of Rs 50,000 since he opts for a regular scheme. Thus the GST payable on sales Rs 240,000 can be offset by GST paid on inputs Rs 50,000.

This is illustrated in the below tables

GST payable on sales

Turnover	Rs 20,00,000
GST @ 12%	Rs 2,40,000

GST paid on inputs

Inputs purchased	Rs 10,00,000
GST @5%	Rs 50,000

Total cash outflow

GST on sales	Rs 2,40,000
GST collected from customers	(Rs 2,40,000)
GST paid on purchases	Rs 50,000
Total cash outflow	Rs 50,000

## Summary

Cash out flows under the COMPOSITION SCHEME	Rs 150,000
Cash outflow under the REGULAR SCHEME	Rs 50,000
Difference	Rs 100,000

In terms of net cash out flow REGULAR SCHEME would be better due to

- Collection of GST from customers
- Set off of input credit against GST payable

In terms of competitiveness, COMPOSITION SCHEME would be better since

- GST is not recovered from the customer

- Pricing with other restaurants would be comparable

In case of a restaurant serving only vegetarian dishes where inputs like vegetables, milk, cream, curd, paneer, eggs and honey are used, the GST rate is either 5% or Nil under Chapter 4, REGULAR SCHEME would be a better option as illustrated from the above tables, but competition must also be considered before deciding on the scheme.

**To conclude**, the dealer has to make a trade-off between these two schemes based on the

- Willingness to take a hit on his cash flows
- Effect of higher pricing on competition

## Did You Know?

1. It has been 17 years since GST was first conceptualized in India.
2. About 160 countries in the world have the GST.

France was the first country to have introduced GST.

Only 2 countries have dual GST. India and Canada

3. Rate of GST

Lowest GST rate is 1.5% it is in Aruba and highest is 27% in Hungary.

The GST Council in India has proposed a four-tier rate structure with two standard rates – 12% and 18%, a lower rate of 5% for the Essentials and a higher rate of 28% for the luxury goods and sin goods.



# An Overview: Transitional Provisions under Goods and Services Act (GST)

An understanding of the Transitional Provisions ("TP") is paramount as it has huge financial implications to all GST Registered Dealers as it basically deals tax or duty carried forward under any existing law or on goods held in stock as on 30<sup>th</sup> June, 2017.

The keep provisions related to the same are contained in Section 140 of the GST Act, read with Rules related to TP.

## 1. Unavailed CENVAT Credit on Capital Goods

1.1. It may be noted that Capital Goods is defined in Section 2(19) of GST Act and it is not similar to the definition available under Rule 2(a) of the CENVAT Credit Rules, 2004 however the explanations under GST Act treats the meaning of capital good in the same manner as provided under CENVAT and hence credit would be available on all such goods.

1.2. Further explanation to Section 140(2) provides that Unavailed means the amount remaining after subtracting the credit already availed under the existing Central Excise Laws to which the assessee was entitled to.

## 2. Treatment of Stock in Hand under GST-INPUT TAX Credit (CENVAT and VAT)

### 2.1. Eligibility

A GST Dealer would be entitled to take credit of eligible duties and taxes in respect of inputs held in stock, work-in-progress or finished goods as on 30<sup>th</sup> June, 2017.

### 2.2. Conditions

Such inputs or goods are intended to be used for making taxable supplies

- He is eligible for input credit under GST
- He possesses invoices or other duty paying documents evidencing payment of duty under CENVAT or VAT laws in respect of which the credit is now being claimed
- The documents should relate to the period commencing from 1<sup>st</sup> June, 2016 and ending on 30<sup>th</sup> June, 2017, that is not earlier than twelve months immediately 1<sup>st</sup> July, 2017.

### 2.3. Eligible Input Credits and Eligible person

- Covered under Explanation to Section 140 and Eligible Person covered under Section 140(3) of the Act.

### 2.4. Procedure

- FORM GST TRAN 1: The amount of input credit claimed shall be filed by the registered dealer by 29<sup>th</sup> August 2017.
- FORM GST PMT 2: The input credit shall be credited to the electronic credit ledger of the registered dealer on the GSTN portal.
- FORM GST TRAN 2: The registered dealer availing this scheme to submit the statement at the end of each of the six tax period during which the scheme is in operations (that is till 31st December, 2017)

## 2.5. Brief on Manufactures/ Suppliers of / Dealers

Manufacturer/ Supplier of Service (Provisio to Sec.140(3))					
Registered under	Excise, VAT and Service Tax	Excise and VAT	VAT Only	Supplier of Service- Service Tax	Not registrered Earlier, now registered under GST
1 Excess Input Credit reflects in Returns Filed for the period ended 30th June, 2017 ( six months old)-					Not Applicable
1.1 Excess CENVAT Credit (Shown in Excise Return)	Carried Forward as CGST	Carried Forward as CGST	Not Applicable	Not Applicable	
1.2 Excess CENVAT Credit (Shown in Service Tax Return)	Carried Forward as CGST	Carried Forward as CGST	Not Applicable	Carried Forward as CGST	
1.3 Excess VAT Credit (Shown in VAT Returns)	Carried Forward as SGST	Not Applicable	Carried Forward as SGST	Not Applicable	
2 Duty Paying Documents Available and should be dated on and after 1st July, 2016	Should be Available	Should be Available	Should be Avaiaable	Should be Avaiaable	Should be Available
3 Excise Duty , Additional Excise Duty, SAD in respect of Stock held on 30th June, 2017 (Raw Materials, Work-In-Progress & Finished Goods)					Allowed subject to inputs/goods should be used to make taxable supplies. Taxable Supplies Sec. 2(108) Carried Forward as CGST



Mr. A of Bangalore wants to opt for Composition. He is a trader having turnover of Rs. 50 lakhs per annum. He has a bank loan of Rs. 10 lakhs for working capital and has also given a collateral security of Rs. 2 lakhs as fixed deposit. Can he?

Please send your opinion to, [enewsletter.icsimysore@gmail.com](mailto:enewsletter.icsimysore@gmail.com)

Opinion to last month's brainy bits continued in page 15



## Job Work Under GST

### Introduction:

Job-work sector constitutes a significant industry in Indian economy. It includes outsourced activities that may or may not culminate into manufacture. The term Job-work means processing of goods supplied by the principal. The concept of job-work already exists in Central Excise, wherein a principal manufacturer can send inputs or semi-finished goods to a job worker for further processing. Many facilities, procedural concessions have been given to the job workers as well as the principal supplier who sends goods for job-work. The whole idea is to make the principal responsible for meeting compliances on behalf of the job-worker on the goods processed by him (job-worker), considering the fact that typically the job-workers are small persons who are unable to comply with the discrete provisions of the law.

The GST Act makes special provisions with regard to removal of goods for job-work and receiving back the goods after processing from the job-worker without the payment of GST. The benefit of these provisions shall be available both to the principal and the job worker.

### What is Job Work?

Section 2(68) of the CGST Act, 2017 defines job-work as 'any treatment or process undertaken by a person on goods belonging to another registered person'. The one who does the said job would be termed as 'job worker'. The ownership of the goods does not transfer to the job-worker but it rests with the principal. The job worker is required to carry out the process specified by the principal on the goods.

### Procedure and compliance under GST:

Certain facilities with certain conditions are offered in relation to job-work, some of which are as under:

- A registered person (Principal) can send inputs/ capital goods under intimation and

subject to certain conditions without payment of tax to a job-worker and from there to another job-worker and after completion of job-work bring back such goods without payment of tax. The principal is not required to reverse the ITC availed on inputs or capital goods dispatched to job-worker.

- Goods sent out for job work must be accompanied with a challan.
- Goods sent must be received back by the principal within the period mentioned below:

- Inputs, semi-finished or finished goods- 1 year
- Capital Goods- 3 years

Of being sent out by the principal to the job worker

- In case where the goods sent have not been received back within the period as mentioned above, such goods will be treated as supplied to the job worker by the principal. Further tax will be required to be paid by the principal on such deemed supply.

- Principal may on his own will
  - Receive back the goods after processing from job worker
  - Supply to his customers from the place of business of job worker

Under both the situations ITC paid on purchase of goods sent on job work will be allowed to the principal.

- After processing of goods, the job-worker may clear the goods to-
  - Another job-worker for further processing
  - Dispatch the goods to any of the place of business of the principal without payment of tax
  - Remove the goods on payment of tax within India or without payment of tax for export outside India on fulfillment of conditions.



- Waste and scrap generated during the initial process, intermediate process, assembly, packing or any other completion process may be sold on payment of tax by:
  - Job worker- if he holds a registration
  - Principal- if job worker does not hold a registration.

The facility of supply of goods by the principal to the third party directly from the premises of the job worker on payment of tax in India and likewise with or without payment of tax for export may be availed by the principal on declaring premise of the job-worker as his additional place of business in registration. In case the job-worker is a registered person under GST, even declaring the premises of the job-worker as additional place of business is not required.

Before supply of goods to the job-worker, the principal would be required to intimate the Jurisdictional Officer containing the details of the description of inputs intended to be sent by the principal and the nature of processing to be carried out by the job-worker. The said intimation shall also contain the details of the other job-workers, if any.

The inputs or capital goods shall be sent to the job worker under the cover of a challan issued by the principal. The challan shall be issued even for the inputs or capital goods sent directly to the job-worker. The challan shall contain the details specified in Rule 10 of the Invoice Rules.

The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

#### **Input Tax credit on goods supplied to job worker:**

Section 19 of the CGST Act, 2017 provides that the principal shall be entitled to take the credit of input tax paid on inputs sent to the job-worker for the job-work. Further, the proviso also provides that the principal can take the credit even when the goods have been directly supplied to the job-worker without being brought into the premise of the principal. The principal need not wait till the inputs are first brought to his place of business.

#### **Transition provisions**

##### **Inputs, semi-finished goods or finished goods removed for job work for carrying certain processes and returned on or after the appointed date:**

In case any inputs or semi-finished goods had been removed before the appointed date from the factory of the manufacturer and sent to a job worker for carrying further processing, testing, repair or for a similar purpose, and the same is received on or after the appointed date, no tax shall be payable if the following conditions are satisfied:

- Underlying goods are returned to the factory within 6 months from the appointed date (extendable for a maximum period of 2 months).
- Declaration of the goods held by job worker is done in specified form and manner
- Supply of semi-finished goods or finished goods is done only on payment of tax in India or the goods are exported out of India within 6 months from the appointed date (extendable by not more than 2 months).

If the underlying inputs, semi-finished goods or finished goods are not returned within 6 months or extended period, ITC availed earlier under existing laws will be recovered





# Input Tax Credit/Returns under GST Law

The major problem in the present indirect tax regime is the “tax on tax” popularly known as “tax cascading”. Tax cascading not only increases the cost of the product but creates a major disadvantage for the Indian manufacturers and traders, not only in the National Market but also in the International market.

Tax cascading arises in a situation where the taxes paid at any previous stage of the supply chain are taxed at the next stage; hence they are included in the cost. This gives rise to the situation of tax on tax.

The CENVAT Credit rules in the present indirect tax structure removes the cascading of the tax to a certain extent only.

## REASONS FOR CASCADING:

- Non availability of cross credit between excise duty/service tax and value added tax (VAT).
- Non- creditable nature of Central Sales Tax (CST) and Entry tax in some states.
- No credit of the Basic Customs Duty (BCD) levied under the Customs Act 1962.
- No credit of the Swachh Bharat Cess to both manufacturers and service providers and that of the Krishi kalyan Cess to the manufacturers.

GST is the transformation of tax regime in India which eliminates the cascading of tax.

## INPUT TAX CREDIT:

Input tax credit means the credit of central tax, state/ union territory tax and integrated tax available to a registered person on the inward supply of goods or services or both, made to him excluding the tax paid on supplies liable to composite tax. It further includes the integrated tax

applicable on import of goods and the tax payable under reverse charge mechanism.

## INPUT TAX CREDIT Definition:

“Input tax” is defined in Section 2(255) of the-- Input tax in relation to a taxable person, means

The {IGST and CGST}/ {IGST and SGST} Charged on Any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 7 (tax paid on reverse charge basis).

However, in the GST scenario, the definition of input tax is very wide – i.e

Any GST (SGST,CGST,IGST) Charged on Supply of goods or services which are used (or to be used) in the course of furtherance of business.

## PRINCIPLES ON INPUT TAX CREDIT:

- Seamless flow of credit.
- Extends to interstate supplies.
- No cross credit between (IGST, CGST, SGST).
- Accumulation of utilised GST credit would be avoided except in the case of exports.

Credit utilization would be as follows:

Credit of	Allowed for Payment of		
	IGST	CGST	SGST
IGST	1	2	3
CGST	2	1	
SGST	2		1

**CONDITIONS FOR AVAILMENT OF ITC BY A REGISTERED TAXABLE PERSON:**

- Basis - tax invoice/ debit note issued by a registered supplier, or other prescribed taxpaying document.
- Goods and/or services have been received.
- Tax actually paid by the supplier to the credit of the appropriate Government, either in cash or by utilization of ITC.
- He has furnished the monthly return in Form GSTR-3
- Goods deemed to be received by a taxable person when the supplier delivers the goods to the recipient/ any other person, on the direction provided by the taxable person to the supplier.

- Credit only upon receipt of the last lot/ instalment in case of goods received in lots/ instalments

**ELIGIBILITY OF AVAILING OF THE TAX CREDIT UNDER FOLLOWING:**

- Taxable Registered Dealer u/s 16(1).
- Persons applied for registration within 30 days of becoming liable to registration and being granted such registration.
- A person who has applied for voluntary registration.
- When a person opting to take normal tax scheme ( i.e exit for composition scheme).
- Persons becoming liable to pay tax under GST due to his supplies becomes taxable which were earlier exempted.

Details of all the returns which are required to be filed under the GST Law.

<b>Return Form</b>	<b>What to file?</b>	<b>By Whom?</b>	<b>By When?</b>
GSTR-1	Details of outward supplies of taxable goods and/or services effected	Registered Taxable Supplier	10th of the next month
GSTR-2	Details of inward supplies of taxable goods and/or services effected claiming input tax credit.	Registered Taxable Recipient	15th of the next month
GSTR-3	Monthly return on the basis of finalization of details of outward supplies and inward supplies along with the payment of amount of tax.	Registered Taxable Person	20th of the next month
GSTR-4	Quarterly return for compounding taxable person.	Composition Supplier	18th of the month succeeding quarter
GSTR-5	Return for Non-Resident foreign taxable person	Non-Resident Taxable Person	20th of the next month
GSTR-6	Return for Input Service Distributor	Input Service Distributor	13th of the next month
GSTR-7	Return for authorities deducting tax at source.	Tax Deductor	10th of the next month
GSTR-8	Details of supplies effected through e-commerce operator and the amount of	E-commerce Operator/Tax Collector	10th of the next month

	tax collected		
GSTR-9	Annual Return	Registered Taxable Person	31st December of next financial year
GSTR-10	Final Return	Taxable person whose registration has been surrendered or cancelled.	Within three months of the date of cancellation or date of cancellation order, whichever is later.
GSTR-11	Details of inward supplies to be furnished by a person having UIN	Person having UIN and claiming refund	28th of the month following the month for which statement is filed

### Conclusion:

The provisions of the input tax credit in the present GST regime is more beneficial and major boost to

the GDP and help India's economy's growth which is expected in the coming years to improve the taxation efficiency and ease of doing business to convert India in one common market

## Living Room...



There once lived a milkman in a small village. He made a living by selling milk, curds and butter. A simple man, he had the help of his wife to make the by-products of milk which he then took to the city to sell. His wife was responsible for packing the butter in packets weighing 1 kilo each.

It was just another day for the milkman. As was his routine, he took the packets of butter to a storekeeper who engaged in a barter system of goods in the marketplace.

The butter exchanged hands and in return, the milkman got equal quantity of sugar, salt and other necessities according to the requirements of his household. That day, however, the storekeeper looked a little annoyed and said, "I thought you

were an honest man, but I see that you cheat! The packet of butter weighs only 900 grams but is marked as 1 kilo."

The milkman replied in a calm voice, "Sir, I am poor but not a cheat. I used the packet of sugar I took from your shop as a weight to measure out the butter since my own weights were not in place." The storekeeper grew red in the face and was embarrassed and thoroughly ashamed.

Moral of this story is that whatever we give comes back to us; be it respect, happiness, sadness or dishonesty. The wheel turns a full circle always. What goes out comes around too.



## GST Rate Finder

GST is the new tea time topic for the people of India. The people in the Business sector are very much curious to find how GST is going to affect them. So, in order to make understanding of GST in a simplified manner the Central Board of Excise and Customs (CBEC) has come out with a new simplified app called "GST Rate Finder".

The App is currently available on the play store and the Board claims that it will be soon available on the ios platform as well.

The GST Rate Finder is a user friendly app that has only five tab as of now (may get updated in the future).

### 1. Quick Search:

This is the most useful tab where if we type in name of any goods or service it gives all the details like

#### a. HSN/Chapter

#### b. GST Rate

#### c. Description

### 2. Tax Rate-Goods:

This tab divides the goods taxable under GST into various tax heads like goods subject to tax @ 0%, 0.25%, 3% and so on.

### 3. Tax Rates-Services:

This tab divides the services taxable under GST into various tax heads like goods subject to tax @ 0%, 5%, 12% and so on.

### 4. Information@CBEC:

This is a linking tab which directs you to the site

<http://cbec.gov.in/htdocs-cbec/gst/index>

### 5. Disclaimer:

The last tab is disclaimer given by the CBEC that "the app is simplified version of Complete GST Rules and Regulations for the guidance of the users".

## Words Worth Million

"If you want to shine like a sun. First burn like a sun."

- A.P.J Abdul Kalam





## Electronic Commerce (EC) And GST

### Introduction

Goods and services tax (GST) is apparently one of the biggest indirect tax transformations in India. It is expected to bring a simpler tax structure with a unified credit chain. GST, a destination based Tax on consumption of Goods and Services imposed at all phases right from manufacture up to eventual consumption with credit of Taxes paid at earlier stages.

Article 366(12A) of the Constitution of India under 101<sup>st</sup> Constitutional Amendment Act, 2016 defines Goods and Services tax (GST). This also includes exempted articles which are out of purview of GST i.e. supply of alcoholic liquor for human consumption and Five Petroleum Products viz. Petroleum Crude, Motor Spirit (petrol), High Speed Diesel, Natural Gas and Aviation Turbine Fuel where GST rates and procedure shall be decided later. In fact Electricity is also kept out of GST purview presently. Correspondingly, for E-Commerce Players like Amazon, Flipkart or Snapdeal, GST implementation is also been deferred. Apart from that small business deals through these E-commerce platforms also not required to register themselves immediately.

The terms E-commerce and E-business are frequently used interchangeably and can be characterized as Online Shopping. E-commerce (Electronic commerce or EC) is the buying and selling of goods and services, or the transmitting of funds or data over an Electronic Network. Primarily this can be in the form of business-to-business (B2B), business-to-consumer (B2C), consumer-to-consumer (C2C) or consumer-to-business (C2B).

As per the Government notification considering the issue and indicated by Amazon Spoke person about GST Implementation, "This ensures business continuity for marketplace but most importantly extend benefit to our sellers as they don't have to deal with pressure of cash flow at a time when they

are transitioning into a new tax regime". The Model GST Law has incorporated a separate chapter on E-Commerce transactions.

As per my opinion, 'One Tax, One Market' concept on which GST is based should be a welcome step for Online Market Player. Further sector-specific provisions need to be introduced in the GST Framework for the enhanced tax treatment and to follow 'unabridged' approach for impact of assessment and implementation. Tax and Business teams also need to work together to provide a seamless service to customer covering all necessary aspects.

In last couple of years, this sector has witnessed a phenomenal & unprecedented growth in terms of Turnover/volume, Revenue, Customers, Products, mode of payments and number of transactions. Indelicately I would say that for this sector the Indirect Tax Laws in India have been more of impediment than a driver for progression till date with subsumed of the existing taxes levied and collected by Centre (Central Excise Duty, Additional Duties of Excise and Custom, service tax etc.) & State (State VAT, CST, Luxury Tax, Purchase Tax etc.).

Though GST launch may demand larger compliances for E-commerce Companies, once it is implemented will also benefit in various ways to these players.

### Key features of GST w.r.t E-Commerce are:

- Reduction of cascading effect of taxes and bring down the overall cost of supplies expecting that the cost advantage would also be eventually passed on to the customers.
- Since GST is a destination tax Compliances will be strong
- As per GST Bill, any payment made to a supplier would be subject to tax collected at source at the notified rate. This may disrupt the relationship between sellers and e-commerce companies.

- Consolidation in Tax Rates.
- Removal of various restrictions on cross utilization of credits

As far as tax treatment and regulatory filing are concerned, E-Commerce companies will not be required to collect 1% TCS while making payment to their suppliers for goods sourced under GST. Further the threshold exemption is also not available to such suppliers and they would be liable to register irrespective of the value of supply made by them. This requirement, however, is applicable only if the supply is made through such electronic commerce operator who is required to collect tax at source only in case of certain notified services.

Electronic Commerce Operator has been defined to mean any person who owns, operates or manages digital or electronic facility or platform. Every E-Commerce Operator is required to furnish a statement electronically, containing the details of outward supplies of goods or services transacted, including returned entries as well. The amount collected by it as TCS during a month is required to be deposited within ten days after the end of such month. The operator is also required to file an annual statement by 31st day of December following the end of the financial year in which the tax was collected.

The details of supplies and the amount collected during a calendar month, which is furnished by every operator in his statement will be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same calendar month or any preceding calendar month. Any discrepancy shall be communicated to both persons.

Discrepancy if communicated and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the said supplier. The concerned supplier shall be liable to pay the tax payable with interest on the amount so added; from the date such tax was due till the date of its payment. Deputy Commissioner not below the rank can issue a notice to the electronic operator to furnish specified details within a period of 15 working days from the date of service of such notice.

In case of E-Commerce Operators are concern they are required to pay the taxes if such services are supplied through it and all the provisions of the Act shall apply to such Electronic Commerce Operator as if he is the person liable to pay tax in relation to supply of such services.

[Continued from page no 7](#)



## ***Opinion To Last Month's Brainy Bits***

The question was based on the definition of taxable supply. Section 24(1) makes it mandatory for persons making any inter-state 'taxable supply' to register.

Taxable supply is defined in section 2(108) as a supply which is leviable to tax. On the other hand, u/s 2(78), 'Non-taxable Supply' is a supply which is not leviable to tax.

It is contended that 'NIL' rate for a particular supply makes it fall under the scope of taxable supply under the premise that the tax has been levied at the rate of NIL.

However, when we go through the definition of exempt supply u/s 2(47), it specifically provides that 'exempt supply' includes supply which attracts NIL rate of tax and supplies which are wholly exempt u/s 11.

Therefore, it is submitted that wherever the term taxable supply is used, it would also include 'NIL' rate of tax. Similarly, the term exempt supply will also include 'NIL' rate of tax. Under this interpretation, Mr. Vampire would be required to get himself registered in Assam u/s 24(i).

It may be noted that as on date, no supplies attract a 'NIL' rate of tax. This is because all such supplies have been included in the exemption notification No. 2/2017 issued u/s 11(1) of the Act.

#### Opinion from the Reader

In my opinion, Mr Vampire is NOT liable to register because **supply of Blood is not taxable** in other words is charged at NIL rate of duty under Chapter 30 of the Rates approved by the GST council.

Under section 24 of CGST persons making any inter-state **taxable supply** are required to register.

Opinion Received by:

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## Challenges as the Journey into GST ERA begins.....

I went to a renowned Supermarket and bought some home needs. I was surprised to look at the bill as it did not comply with the Tax Invoice Compliances prescribed in GST law. This was after a week's time of GST implementation.

There is a huge knowledge gap and bridging this gap would be a great challenge.

GST -GOODS AND SERVICE TAX is a business reform not just a tax reform. It has many advantages like the tag line ONE NATION ONE TAX ONE MARKET. The free flow of credit between goods & services. The avoidance of Cascading effect. All these must essentially lead to reduction in prices for the ultimate consumer.

GST being a business reform calls for redesigning of the entire business model in order to ensure ideal and smooth adaptation to GST. There are repercussions on each aspect of business be it Supply Chain Management, Designing of CTCs of employees, Invoicing, Data Capture in the system, *eMagazine from ICSI Mysore Chapter | Edition – 159 July 2017*

Inter Branch Management, Working Capital Analysis, Expenditure Analysis, Human Resource Training, Software Configurations, Review of Contractual Agreements, Review of pending litigations and so on and so forth.

GST is compliance based law. Further the registration under GST is specific to state. The Compliances are with respect to each registration.

#### Challenges in GST

**1. Unlearn, Learn AND Re-learn:** GST is a new law. The Old laws would have had a deep rooted impact on all the transactions of business. The first and the biggest challenge would be to learn and understand the NEW LAW with an open minded and unbiased perspective without pre-occupation of the Old rules, laws and procedures probably by unlearning what has become redundant. GST is an evolving law thus to relearn the constant changes and keeping abreast with them could be another challenge. Trainings are the need of the day and has to be very

effective to ensure the absorption of the knowledge that is transmitted and the same is translated to implementation with efficacy. With the limited available time businesses have to cope up to this.

**2. Selection Of Proper HSN Code and Choosing the Appropriate Tax Rate:** The abbreviation for HSN is Harmonized System Nomenclature. In GST goods & services have to be classified with respect to HSN Codes and the rate of tax must be chosen accordingly. This is a very sensitive area wherein an error in identification of proper code and thus proper rate of tax can be a costly affair and could lead to financial repercussions including interest & penalty implications with very many litigations to follow. However there is a relaxation given to small traders having aggregate turnover of less than Rs.1.5 crores exempting the usage of HSN codes. Further the classification of a given good/service to a particular HSN code must be based on rules called General Interpretative Rules which calls for technical expertise.

**3. Widened Levy in GST :** The roots of GST lie in Supply definition & Charging Section of Levy. They are wide enough to cover many transactions unless specifically excluded in the Act or exempt through notification. For example : Transfer from Head Office to Branch located in another State attracts levy of GST. The subscription or Membership fee collected by clubs, associations etc also attracts GST. One needs to be extremely careful about these scenarios.

There are two types of Levy in GST- One is forward charge and the other is reverse charge. Further the concept of reverse charge on inward supplies received from unregistered person imposes the responsibility of payment of tax on the recipient. However there is an exemption available provided the aggregate value of such supplies of goods or service or both received by a registered person from any or all the suppliers, who is or are not registered, does not exceed Rs.5,000/- in a day (Notification 8/2017).

To put in a simple way, till now to check what is the amount of tax required to be discharged a business was looking at the Income side of the Trading and Profit & Loss Account (The only exception being reverse charge under service tax). Now in GST every business must look at the Expenditure side of the Trading and Profit and Loss Account as well to check if it is liable to discharge any tax liability for the purchases or expenses it incurs by transacting

with unregistered persons. It could be with respect to either purchase of goods or a stationery expense at a shop next door or refreshments or even rent paid to unregistered persons. Although credit of tax paid under reverse charge would be available (subject to provisions & rules with respect to Input Tax Credit) it would be the responsibility of the business to determine the proper classification of those goods or services into HSN code & proper rate of tax. Any errors would have repercussions with respect to difference of tax liability along with interest. This needs to be carefully analysed and executed which could be very challenging. Thus a preferred way out would be to procure goods or services from registered persons only.

#### **4. Challenges In Registration & Availment Of Composition Scheme:**

In GST the registration criterion for a person is determined on the basis of aggregate turnover concept. Apart from this there are set of other criterion where in the registration is mandatory despite the aggregate turnover limit. For example : Let us assume an individual in Karnataka earns Rs.15,00,000/- as Interest on Fixed Deposit and Rs.6,00,000/- as Rental Income from letting out his property for commercial purpose. Thus his aggregate turnover exceeded Rs.20,00,000/-. Although Interest is earned towards exempt supply (as notified in Notification 12/2017) but still it needs to be included in the aggregate turnover definition and thus such person is required to Register under GST and discharge GST towards Rental Income. Thus while deciding about whether a person is liable to register under GST or not, the definition of aggregate turnover is critical.

Although to remove hardship the composition scheme, which is much simpler with respect to return filing compliance, is made available for up to aggregate turnover of Rs.75,00,000/-, it has many conditions attached with it. For example: If an individual doing trading of say Rs.40,00,000/- turnover per annum, receives say Rs.10,000/- as Interest on Fixed Deposit he would not be eligible for composition scheme, because to be eligible for composition he must not be engaged in service (subject to one exception) and Notification 12/2017 relating to Nil rated services includes interest earned on deposits. In a common parlance one may think is earning interest result of supply of service??

Thus a deeper understanding of the law would be required comprehending and linking related provisions. Challenge for the professionals as well to comprehend, understand and give appropriate consultation in the limited span of time and the work pressure.

**5. Input Tax Credit Availment:** There are many conditions to be complied for the purpose of availing of Input Tax Credit, not just possession of Tax Invoice. Just to name a few, payment of tax and filing of a valid return by vendor is mandatory. Thus even though the assessee has settled the money owed to vendor including tax but vendor failed to make tax payment to government, then the input tax credit is to be reversed along with interest to the assessee. This would call for additional working capital requirements. Further there are some credits which are called blocked credits which cannot be availed even though incurred for the purpose of business as depicted in Section 17(5) of CGST Act & corresponding state Acts which would add to the cost of the business. There are meticulous rules prescribed for bifurcation & input tax reversals with respect to taxable supplies and exempt supplies when a business deals with both kinds of supplies. Comprehending, translating and implementing these at the data capture level could be very challenging.

**6. Meticulous Return Filing Procedure:** There is a very meticulous procedure laid out for return filing which works on the basis of matching principle. Every business is required to file the outward supply statement within 10th of the following month. The inward supply statement would be auto-populated and between 11th to 15th it would be open for the person receiving it as inward supply to either accept, reject, modify, add or do nothing (if he wants to defer the availment of tax). If he makes any changes then the same needs to be accepted by the vendor between 16th to 17th. Otherwise it would pop up in the mismatch report. The monthly return can be filed only between 18th and 20th after due payment of taxes to constitute a valid return. Thus the Input Tax Credit is available only on a provisional basis for the current month and would get finalised only after a valid return being filed by the vendor. Recording the transactions along with the proper control accounts like Provisional ITC/Deferred ITC account would assist in reconciliations between GST Returns and Books of Accounts.

**7. GST Compliance Rating:** There is a Compliance Rating system with respect to GST Return filing etc. There are various parameters based on which this rating is granted to the assessee and which would be publicly available. This rating is linked not only with respect to assessee's own compliance but also the compliance discipline of his vendors. A default by his vendor (Say for example to file the monthly return) can have a direct impact on the assessee's compliance rating. Thus he has to carefully evaluate and select the vendors.

**8. Technology Is The Key:** As mentioned earlier GST is a compliance based law. Thus selection of proper software which can be configured to the requirements of GST would be critical. Also it must enable the generation of required reports to facilitate reconciliations required for Return Filing & matching the same with books of accounts. A paradigm shift would be required in the mindset of the small timers to adopt technology. Although there is no compulsion in GST Law to maintain books of accounts electronically, the use of technology is recommended to ease the process.

**Concluding Note:** GST is a new law and an evolving one too. Any new law will take time to settle down. The law, rules and procedures are designed in a way to enable the flow of tax to the exchequer without evasion. It is definitely going to boost Indian Economy. However there are the Challenges at the grass root level as shared above. The businesses need to gear up. Those businesses which are organised and compliance oriented would have more business opportunities in this GST Regime.

**Disclaimer:** The above are the views of the author of the article based on the Author's comprehension and interpretation of the Acts, Rules & Notifications available in the public domain.





## Implications of GST on Employer-Employee Relationship

The big news of the month is the Goods and Services Tax which promises to revolutionize the indirect taxation system in the country. While the new taxation system has many implications for businesses, we shall look at the implications for employees.

It is important to understand the scope of "supply" of goods and services under the GST legislations. Section 7 of the Central GST Act defines supply as "all forms of supply of goods or services or both... made or agreed to be made for a consideration by a person in the course or furtherance of business."

We may understand this together with the definition of "industry" as defined by the Supreme Court in *BWSSB v. Rajappa* as (a) where (i) systematic activity, (ii) organized by co-operation between employer and employee, (iii) for the production and/or distribution of goods and services calculated to satisfy human needs.

Thus, an employee is not a provider of goods and services to his employer, but is a collaborator in the enterprise to provide goods or services to the public at large. With this understanding it becomes easy to see why the provision of goods and services by the employee is not liable to be taxed under GST as it is not a separate business in itself but part of a common business which as a whole provides goods and services. Goods and Services supplied by the business as a whole are taxable under GST. It also becomes clear why the provision of certain enabling perquisites to the employees would also not be taxable under GST.

### Activities without any GST Liability

The following fields of interaction between employer and employee would not incur any GST liability:

- 1) Any service or supply of provision in furtherance of the course of employment would not be taxable under GST. For example, safety equipment, laptops, stationeries etc. provided to the employee would not be liable to be taxed under GST.
- 2) Reimbursements by the company for phone bills, work related travel, etc.
- 3) Common facilities such as a coffee machine, table tennis.

### Activities that attract GST liability in some cases

Some transactions or events are taxable under some circumstances or beyond a specified limit.

- 1) Gifts by the employer of value up to Rs. 50,000 are not chargeable. However, gifts of value over Rs. 50,000 are taxable for the amount above the limit.
- 2) Free or subsidized food provided on a daily basis does not incur GST liability. However, food provided on special occasions, such as Diwali etc. would incur GST.
- 3) Cab facility is not chargeable to GST if it is covered under the employment contract. In cases where the cab facility is not covered by the employment contract, GST liability would arise if the employer directly provides the facility to the employee. If however, the cab provides the service to the employee directly and the employer merely pays or reimburses the fare, the employer would not incur GST liability. This may be contrasted with a scenario where an

employer provides its own car or vehicle to the employee, which would not incur any GST.

It may be necessary for most companies to restructure some of their business practices and HR policies on the basis of these tax implications, among others. Indeed, some of the changes required are obvious from the implications described above. However, in view of the input tax

credit system, it is unwise to prescribe any "one size fits all system". In many cases, it may not even be advisable to avoid a GST liability on a particular activity. The right mode would depend on the overall GST profile of the company.

## News Room



### EXPRESS NEWS

- **GST impact: De Beers' Forevermark eyes market share of generic diamond sellers**
- **M&As to increase under insolvency code, says IBBI chief M S Sahoo**
- **GST implementation: Govt tells businesses to register by July 30**
- **GST to trigger a shift to unorganised used-car market**
- **Ease of business: Odisha to develop single portal for investor interface**

### **Sebi's new regulations to allow trusteeship in govt-guaranteed debentures**

Markets regulator Sebi has put in place new regulations for debenture trustees, wherein an entity will not be prohibited from acting as a trustee if the government provides guarantees for the debenture issued.

### **IBC segregates judicial, commercial aspects of insolvency**

The Insolvency and Bankruptcy Code has segregated judicial and commercial aspects of the insolvency process whereby stakeholders have the right to decide on what suits them

### **Legal services of advocates, firm of advocates liable to GST under reverse charge**

There are points being raised about the applicability of GST on legal services provided by advocates — whether it is in forward charge or reverse charge... It is clarified that legal service has been defined to mean any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority,"

# Regulatory Updates

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## Companies Act, 2013

### Updates on Amended Rules

MCA has amended Companies (Audit and Auditors) rules, 2014, Which is to be known as Companies (Audit and Auditors second amendment rules, 2017, in rule 5, in Clause (b) word "Twenty" shall be substituted by the word "Fifty".

*Companies (Audit and Auditors) Second Amendment Rules, 2017, dated 22<sup>nd</sup> June 2017.*

MCA has amended Companies (Transfer of pending proceedings) Rules, 2016, which is to be known as Companies (Transfer of pending proceedings) Second Amendment Rules, 2017. As per new rule all the proceedings relating to voluntary winding up, where notice of the resolution by Advertisement has been given but the Company has not been dissolved before 1<sup>st</sup> April, 2017, shall continue to be dealt with in accordance with the Provisions of the Act.

Rule 5 shall be substituted by the following Rule, All the petitions pending before High court relating to winding up under clause (e) of section 433 shall be transferred to Bench of NCLT established under section 419 of Companies Act, 2013.

*Companies (Transfer of pending Proceedings) Second Amendment Rules, 2017, dated 29<sup>th</sup> June, 2017.*

MCA has amended National Company Law Tribunal Rules, 2016, which is to be known as National Company Law Tribunal (Amendment) Rules, 2017. As per which Rule 87A shall be inserted after Rule 87, an appeal or application shall be filed before the Tribunal in Form No. NCLT 9, same shall be served to the Registrar or some other person as the Tribunal may direct.

*National Company Law Tribunal (Amendment) Rules, 2017, dated 5<sup>th</sup> July 2017.*

MCA has amended Companies (Appointment and Qualification of Directors) Rules, 2014, which shall be known as Companies (Appointment and Qualification

of Directors) Amendment Rules, 2017, Rule 4 shall be numbered as sub-rule (1) and a Joint

venture, Wholly owned subsidiary and Dormant Company (if they are unlisted Public Company), Shall not be covered under sub-rule (1).

*Companies (Appointment and Qualification of Directors) Rules, 2017, dated 5<sup>th</sup> July 2017.*

### Notifications

MCA has amended Schedule IV of Companies Act 2013, through this notification and have made necessary changes in Sub-para (12), (2) and (1).

*G.S.R 584, dated 5<sup>th</sup> July 2017*

### Circulars

A Clarification has been given by the MCA regarding the procedure to be followed while transferring shares to IEPF Authority as per section 124. It is clarified that the procedure followed in the case of transmission of shares shall be followed here.

*General Circular 07/2017, dated 5<sup>th</sup> June, 2017.*

## Limited Liability Partnership Act, 2008

### Updates on Amended Rules

An Amendment has been made to Limited Liability Partnership Rules, 2009, which shall be known as Limited Liability Partnership (Amendment) Rules, 2017. After Rule 37 Sub-rule (1), Sub-rule (1A) shall be inserted.

LLP shall file overdue returns in FORM 8 and 11 up to the end of financial year in which LLP has ceased to carry on Commercial operations before filing Form 24, further it has given the list of documents to be enclosed with Form 24.

*Limited Liability Partnership (Amendment) Rules, 2017, dated 16<sup>th</sup> May, 2017.*