



ICAI-GST

NEWSLETTER

A Newsletter from The Institute of Chartered Accountants of India on GST



Pre GST



Post GST

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President's Communication



My Esteemed professional colleagues,

There are 9.8 million unique GST registrants as on date which are slightly more than the total Indirect Tax registrants under the old system. After adjusting the base for double and triple counting under erstwhile regime of multiple taxes, there is more than 50% increase in the number of unique indirect taxpayers. The increase in absolute number term is 3.4 million which itself is a signal of increasing tax base under new regime. Union Budget 2018-19 has budgeted 18% increased revenue to the Central Govt. against the revenue target of Rs. 9.37 Lacs crore in the year 2017-18. Government is making all the efforts to support the taxpayers in GST implementation.

GST Council at its 25th meeting held on 18th January, 2018 recommended certain relaxations such as GST rates reduction on certain goods and services, reduction in Compensation Cess on certain goods, reduction in late fees for non-filing or late filing of returns, facility of cancellation of registration by migrated taxpayers till 31st March, 2018 and cancellation of voluntary registration before a period of 1 year from the effective date of registration. All these changes have been accepted on the basis concerns raised by trade, businesses, professionals and common men throughout the country. The changes have already been notified by the Government which are sure signs of an open and receptive government.

GST Council in its recent meeting also recommended that the E-way bill rules to be implemented nationwide for inter-State movement with effect from 1st February, 2018 and for intra-State movement with effect from a date to be announced separately by each State but not later than 1st June, 2018, however due to the system glitches the date of implementation has been postponed now. In order to support its member and

various stakeholders, ICAI has recently launched E-publication on E-way bill under GST which is available on the website of the Indirect Taxes Committee.

ICAI is regularly providing its inputs to the Government in the implementation of GST. In this direction, Indirect Taxes Committee of ICAI recently submitted its comprehensive suggestions on GST relating to policy, law and practical issues faced by the assessee for consideration by the Government. Further, ICAI is undertaking several initiatives to enhance the awareness or knowledge of the members regarding GST law and better compliance of the same. One of such initiative is the introduction of e-learning on GST wherein 15 recorded lectures have been made available at <http://idtc.icai.org/e-learning.html> with updated recorded sessions.

The website of Indirect Taxes Committee of ICAI, www.idtc.icai.org, too holds the offline webcasts, E-learning on UAE VAT, while offering regular indirect taxes updates, articles, information on upcoming programmes/ seminars, e-publication on GST/ UAE VAT, etc. Please get registered at the website if you wish to keep yourself informed on GST updates.

ICAI takes pride in playing the desired role of partner-in-nation-building and taking various initiatives towards the implementation of GST in India

With Best Wishes,

CA. Nilesesh S. Vikamsey
President, ICAI



GST UPDATES



Amendment in the Notification No. 11/2017

The Central Government vide Notification no. 1/2018-Central Tax (Rate) dated 25th January, 2018 has amended Notification no. 11/2017 Central Tax dated 28th June, 2017. Following amendments have been made in the notification:

1. In Serial No. 3:

Substitution in clause (c) of item (iv): a civil structure or any other original works pertaining to the “In-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) .

Earlier CGST @6% was leviable when construction service was provided for civil structure constructed only for existing slum dwellers. Now; this rate will apply irrespective of condition of existing slum dwellers.

Insertion of clause (da) of item (iv) : This clause provides that CGST @ 6% will be leviable on construction service provided for construction of a civil structure or any other original works pertaining to the “Economically Weaker Section (EWS) houses” constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban). Earlier any construction service other than specified anywhere was taxable @ 9%

Insertion of clause (db) of item (iv): This clause provides that CGST @ 6% will be leviable on construction service provided for construction of a civil structure or any other original works pertaining to the “houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)” under the Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana (Urban).

Insertion of clause (g) of item (iv): This clause provides that CGST @ 6% will be leviable on construction service provided for construction of a building owned by an entity registered under section 12AA of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralized cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities.

Substitution in clause (a) of item (v): for the word “excluding”, the word “including” shall be substituted.

Earlier works contract service pertaining to railways excluding monorail and metro were leviable to CGST @ 6%. Now, works contract service pertaining to monorail and metro are also leviable to CGST @ 6%.

Insertion in clause (da) of item (v): This clause provides that CGST @ 6% will be leviable on construction service provided for construction of low-cost houses up to a carpet area of 60square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March,2017

Substitution in certain items identified by their clause number in 11/2017-Central Tax (Rate) dated 28 June, 2017 as amended to date: Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Reasons
“(ix) Composite supply of works contract provided by a sub-contractor to the main contractor providing services to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity. (iii) services by way of construction, installation of historical monuments, archaeological site, canal dams, water pipeline etc or (vi) Services by way of construction erection commissioning of road, bridge, civil structures pertaining to schemes under Rajiv Awas Yojna, Pradhan Mantra Awas Yojna etc	9	6	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be	To align the rate on services of sub-contractor to main contractor.

(x) Composite supply of works contract provided by a sub-contractor to the main contractor to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity (vii) services involving predominantly earth work (that is constituting more than 75 percent of the value of the works contract)	9	2.5	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.	Apart from alignment of rate applicable to sub-contractor with main-contractor, it is to be noted that supply does not involve transfer of land or share in land under this clause, it is a case of pure construction activity by sub-contractor
(xi) Services by way of housekeeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under subsection (1) of section 22 of the Central Goods and Services Tax Act, 2017.	9	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv)].	This rate applies to the ECO and not underlying supplier. Also, this rate is not optional for ECO.
(xii) Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) and (xi) above.	9	9	-	All other cases not covered by the above clauses fall here. Also, since there is no 'or' appearing before clause (xii), the rates specified in the clause above are mandatory. There are views that one can opt to retain ITC and pay 9% CGST but that view is to be taken with great caution.

2. In serial no. 9:

Substitution in item (v): For the words "natural gas", the words and brackets "natural gas, petroleum crude, motor spirit (commonly known as petrol), high speed diesel or aviation turbine fuel" shall be substituted. Therefore, now transportation of petroleum crude, motor spirit (commonly known as petrol), high speed diesel or aviation turbine fuel through pipeline shall also be leviable to CGST @ 2.5%.

Comment: Please note the corresponding changes in the notifications of 1 Feb, 2018 and 2 Feb, 2018 under Customs in respect of these products to maintain rate parity of taxes and duties.

3. In serial no. 10:

Substitution in item (ii): Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Remarks
"(ii) Time charter of vessels for transport of goods.	2.5	9	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not been taken [Please refer to Explanation no. (iv)].	Rate increase is prospective and not optional. Where ITC may not have been availed, the same can now be availed by in accordance with section 18 read with rule 43 in case ITC was not availed on recent purchases. ITC blocked in returns filed recently are not lost permanently due to this revision in condition. Also, the condition applicable will not restrict ITC to the Recipient.
(iii) Rental services of transport vehicles with or without operators, other than (i) and (ii) above.	9	9	-	Supplies falling in this category must be determined with great caution due to the expansive words in clauses (i) and (ii)

4. Substitution In serial no. 16: Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Remarks
(i) Services by the Central Government, State Government, Union territory or local authority to governmental authority or government entity, by way of lease of land.	9	Nil	-	The prescribed rate itself is reduced to 'nil'. This rate applies only to inter-Government lease and not to private entities.
(ii) Supply of land or undivided share of land by way of lease or sub lease where such supply is a part of composite supply of construction of flats, etc. specified in the entry in column (3), against serial number 3, at item (i); sub-item (b), sub-item (c), sub item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi). Provided that nothing contained in this entry shall apply to an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification	9	Nil	-	Transfer of land or share of land 'leasehold' basis as part of composite supply of building is supply but rate is 'nil'. As such, it seems to suggest that transfer of land or share of land on 'freehold' basis is taxable. This 'nil' rate is available only when the value of such 'leasehold' rights is not more than 1/3rd of the total value.
(iii) Real estate services other than (i) and (ii) above	9	9	-	Transfer on 'freehold' basis is taxable.

5. Substitution In serial no. 17: Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Remarks
(vii) Time charter of vessels for transport of goods	Rate of central tax as applicable on supply of like goods involving transfer of title in goods	2.5	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not been taken [Please refer to Explanation no. (iv)].	Refer sl. no. 10 above
(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii) above.	.Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	-	-

6. In Serial no. 23:

Insertion in item (i) : in condition 1 in column (5), after the words "supplying the service", the words and brackets, "other than the input tax credit of input service in the same line of business (i.e. tour operator service procured from another tour operator)" shall be inserted

Comment: This is a welcome change and now ITC of input services in the same line of business can be availed.

Substitution in item (ii): Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)
(ii) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017	9	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv)].
(iii) Support services other than (i) and (ii) above.	9	9	-

7. In Serial no. 24

Insertion of clause (h) in item (i): "(h) services by way of fumigation in a warehouse of agricultural produce with Nil rate.

Substitution in item (ii): Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Reasons
(ii) Service of exploration, mining or drilling of petroleum crude or natural gas or both.	9	6	-	Rate rationalization
(iii) Support services to mining, electricity, gas and water distribution other than (ii) above.	9	9	-	

8. Substitution in In serial no. 25: Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Remarks
(i) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017.	9	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv)].	This rate applies to the ECO and not underlying supplier. Also, this rate is not optional for ECO.
(ii) Maintenance, repair and installation (except construction) services, other than (i) above	9	9	-	

9. In serial no. 26:

Insertion of column (ea) in item (i): (ea) manufacture of leather goods or foot wear falling under Chapter 42 or 64 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) respectively.

Substitution in item (iii): Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Remarks
(iii) Tailoring services.	9	2.5	-	
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ii), (iia) and (iii) above.	9	9	-	Care should be taken to ensure that 'all' inputs that form part of the output must be provided by 'others' considering that sl. no. 27 also applies

10. Substitution in serial no. 32: Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Reasons
(i) Services by way of treatment of effluents by a Common Effluent Treatment Plant.	9	6	-	Rate rationalization
(ii) Sewage and waste collection, treatment and disposal and other environmental protection services other than (i) above.	9	9	-	

11. In serial no. 34

Substitution in item (iii): Through this substitution GST rates has been notified for the following description of services:

(3)	Existing Rate	Revised Rate	(5)	Remarks
(iii) Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	14	9	-	Note: In case of any similar venue, other than specified in (iii), it can be construed to fall under (iia)
(iia) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, casinos, race club, any sporting event such as Indian Premier League and the like.	14	14	-	Those events/venues that do not fall within (iii) will fall here.

[Notification no. 1/2018-Central Tax (Rate) dated 25th January, 2018]

Amendment in the Notification No. 12/2017

The Central Government vide Notification no. 2/2018-Central Tax (Rate) dated 25th January, 2018 has amended Notification

no. 12/2017 Central Tax dated 28th June, 2017. Following insertions / amendments have been made in the notification:

1. Insertion of serial no. 3A: This insertion provides exemption

from tax leviable on composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

- 2. Substitution in serial no. 16:** For the words “one year”, the words “three years” shall be substituted.

Therefore, services provided under regional connectivity scheme will remain exempt upto a period of 3 years from the date of commencement of operations of Regional Connectivity Scheme.

- 3. Insertion of serial no. 19A & 19B:** Following entries shall be inserted:

(1)	(2)	(3)	(4)	(5)	Remarks
19A	Heading 9965	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.	Nil	Nothing contained in this serial number shall apply after the 30th day of September, 2018.	Limited duration exemption that has a pre-fixed expiration date
19B	Heading 9965	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India	Nil	Nothing contained in this serial number shall apply after the 30th day of September, 2018.	Same as above

- 4. Insertion of clause (c) in in serial no. 22:** This insertion provides exemption from tax leviable on service provided by way of giving on hire of motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.

Comment: this exemption is corresponding to clause (b)(i) in serial no. 66. It would be interesting to see the implications of non-issuance of similar amendments on forward charge covered by clause b(ii) and (iii) in serial no. 66.

- 5. Insertion of serial no. 29A:** This insertion provides exemption from tax leviable on Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.

Comment: note the corresponding amendment made retrospectively in respect of Service tax also in Finance Bill, 2018.

- 6. Substitution in clause (c) of serial no. 36:** For the words “fifty thousand”, the words “two lakhs” shall be substituted. Therefore, no GST will be leviable on service of life insurance provided under life insurance micro product having maximum amount of cover of two lakhs. Earlier, service provided under life insurance micro product having cover

upto 50 lakh was exempt.

Comment: welcome enhancement of limit to a meaningful threshold.

- 7. Insertion in Serial no. 39:** by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).

Comment: as a result of this exemption, services of an intermediary whose ‘place of supply’ is determined by rule 13(8) of IGST Act, will be enjoy a discriminatory treatment compared to other intermediaries (even located in SEZ) that earn foreign exchange. It needs to be seen if such exemption will extend and substantially eclipse 13(8), which has been another important representation to the Government from ICAI.

- 8. In serial no. 45**

Insertion in item (a): (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

Insertion in Item (b): (iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity

Insertion in Item (c): (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

Comment: These insertions provides that services provided by an arbitral tribunal, partnership firm of advocates or individual advocates to the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity are exempt from GST.

- 9. Insertion of serial no. 53 A:** This insertion provides exemption from tax leviable on Services relating to agriculture produce by way of fumigation in a warehouse of agricultural produce.
- 10. Insertion of clause (h) in serial no. 54:** This insertion provides exemption from tax leviable on Services by way of fumigation in a warehouse of agricultural produce
- 11. Omission in serial no. 60:** The words “the Ministry of External Affairs,” shall be omitted. Therefore, service by a specified organization in respect of religious pilgrimage facilitated by ministry of external affairs is no more exempt from GST.

12. In serial no. 66 (Services provided by or to Educational Institution):

Insertion of item (aa) after item (a) : This insertion provides exemption from tax leviable on Services by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.

Omission in sub-item (iv) of item (b) : The word “upto higher secondary” shall be omitted.

Insertion of sub-item item (v) in item (b) : This insertion provides exemption from tax leviable on supply of online journals or periodicals to an educational institution

Insertion of Proviso to item (b): This proviso provides that nothing contained in sub-item (v) shall apply to an institution or an institution providing services by way of,-

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course

Comment: Institutions are free from tax for conducting entrance exams. And in case of supply of online journals or periodicals to an educational institution other than institution providing services by way of pre-school education and education up to higher secondary school or equivalent or providing education as a part of an approved vocational education course is exempt.

13. Substitution in serial no. 77

In item (c) for the words “five thousand “, the words “seven thousand five hundred “shall be substituted. Therefore, Now service by an in unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution- upto an amount of Rs. 7500 per month per member for sourcing of goods or services from a third person is exempt. Earlier an amount upto Rs. 5000 only was exempt.

Comment: RWAs now enjoy higher threshold of exemption but the implication to be borne by these RWAs is the loss of ITC under section 17(2) which will translate into higher cost-of-operating the Association because except utilities received, all inward supplies are taxed at 18%. Another issue is with the words ‘upto’ before the quantum of exemption. The view that this value limit operates like a ‘standard deduction’ to all owners-residents of an RWA has not been accepted by all experts and has not yet come up for examination by the judiciary.

14. Substitution in serial no. 81

Earlier services by way of right to admission to circus dance, award function, recognized sporting events etc. were exempt where the consideration for admission is not more than Rs. 250 per person. Now, through this substitution admission to planetarium has also been exempted. Further, exemption limit of consideration has been extended upto Rs. 500 per person.

[Notification no. 2/2018-Central Tax (Rate) dated 25th January, 2018]

Recipient is liable to pay tax on renting service received from Government

The Central Government vide Notification no. 3/2018 dated 25th January, 2018 has notified that service by way of renting of immovable property when provided by the Central Government, State Government, Union territory or local authority to a person registered under the Central Goods and Services Tax Act, 2017 than registered person is the person liable to pay tax under reverse charge.

Comment: RCM scope expanded to apply in case of rental of immovable property from Government not only to ‘business entity’ but to ‘all’ registered persons.

[Notification no. 3/2018 dated 25th January,2018]

Liability to pay central tax shall arise at the time when the developer or construction company transfer possession

The Central Government vide Notification no. 4/2018-Central Tax (Rate) dated 25th January,2018has notified that in case of supply of development rights to a developer or in case of supply of construction service to supplier of development rights the liability to pay central tax on supply of services shall arise at the time when the developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter) .

Comment: (i) clearly the notification implies that there is a ‘barter’ and the limb involving construction services it admittedly taxable but it is not clear from the notification if the limb involving ‘development rights’ is that taxable or not.

(ii) Experts have held the view (notwithstanding the substitution of sl.no.16(ii) to notification 11/2017-CT (R) which clearly excludes ‘freehold’ land) transfer of development rights by Landowner to Builder may not be taxable. Although clarity on this point is awaited, the present notification defers the ‘time of supply’ for the Builder while handing over the Landowner’s share of units to the point which ‘possession transfers’. The wordings of this notification are very similar to circular 151/2/2012-ST dated 10 Feb, 2012 at para B(i). While the issues arising from this circular under service tax are pending at various levels, there does not seem to be any reprieve in GST.

(iii) this notification avers to a ‘registered person’ who ‘supply’ development rights to developer or builder. And in doing so, implies that in the view of the Government Landowner’s are decidedly taxable. This could be the epicenter of litigation in GST in the real estate sector.

[Notification no. 4/2018- Central Tax (Rate) dated 25th January,2018]

Exemption on Intra-state supply of service by way of grant of license to explore or mine petroleum

The Central Government vide Notification no. 5/2018-Central Tax (Rate) dated 25th January, 2018 has exempted the intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the central tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

[Notification no. 5/2018- Central Tax (Rate) dated 25th January, 2018]

Total Revenue Collections under GST for the month of December 2017 stand at Rs. 86,703 crore till 24th January 2018;

The total revenue received under GST for the month of December 2017 (received in December/January up to 24th January) has been Rs. 86,703 crore till 24th January 2018. The Last Date for filing of GSTR 3B return for the month of December 2017 was 22nd January 2018.

One crore taxpayers have been registered under GST so far till 24th January, 2018 of which 17.11 lakh are Composition Dealers which are required to file returns every quarter.

56.30 lakh GSTR 3B Returns have been filed for the month of December, 2017 till 24th January, 2018.

For the Composition Dealers, for quarter July-September 2017, the Last Date of Filing GSTR 4 Return was 24th December, 2017. A total of 8.10 lakh returns were filed by the Composition Dealers paying a total of Rs. 335.86 crore as GST.

For the quarter October-December 2017, the Last Date for filing GSTR 4 return was 18th January, 2018. A total of 9.25 lakh returns were filed by the Composition Dealers for this quarter paying a sum of Rs. 421.35 crores as GST.

(PIB Release ID: 175887)

Central Goods and Service Tax (Amendment) Rules, 2018

The Central Government vide Notification No. 3/2018 – Central Tax dated 23rd January, 2018 has amended Central Goods and Service Tax Rules, 2017. Now these Rules may be called Central Goods and Service Tax (Amendment) Rules, 2018.

Following amendments have been made in the Rules:

- **Substitution in Rule 3:** In rule 3, in sub-rule (3A), for the words "ninety days", the words "one hundred and eighty days" shall be substituted.

Earlier a person who has been granted registration on a provisional basis under rule 24 or who has been granted certificate of registration under sub-rule (1) of rule 10 shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of rule 44 within a period of 90 days from the day on which such person commences to pay tax under section 10. Now it can be furnished within a period of 180 days.

- **Substitution in Rule 7:** This substitution has effect from 1st January, 2018

Sl. No.	Category of registered persons	Rate of tax (Earlier)	Rate of tax (Substituted)
1.	Manufacturers, other than manufacturers of such goods as may be notified by the Government	One per cent.	Half percent of the Turnover in the State or Union territory
2.	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	Two and half percent	Two and half percent of the turnover in the state or union territory
3.	Any other supplier eligible for composition levy under section 10 and the provisions of this Chapter	Half percent	Half percent of the turnover of taxable supplies

- **Omission in Rule 20:** The proviso which restricts to apply for cancellation of Registration by a person who had registered voluntarily, before the expiry of a period of one year from the effective date of registration has been omitted. Therefore, Now Voluntary Registered person can apply for cancellation even before the expiry of 1 year from registration.
- **Substitution in Rule 24:** In sub-rule (4), for the figures, letters and word "31st December, 2017", the figures, letters and word "31st March, 2018" shall be substituted
Earlier, this Rule provides that the person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before [31st December], 2017 at his option, submit an application electronically in FORM GST REG-29 for the cancellation of registration. Now person can apply for cancellation upto 31st March, 2018.
- **Insertion of 31A in Rule 31:** 31A. Value of supply in case of lottery, betting, gambling and horse racing which provides the manner to determine value of supply of lottery which is as follows:

Sl No.	Type of Lottery	Value of supply
1.	Lottery Run by State Government	100/112
2.	Lottery authorized by State Government	100/128
3.	Actionable claim in the form of chance to win in betting gambling or horse racing in a Race Club	100% of the face value of the bet or the amount paid into the totalisator.

- **Substitution in Rule 43:** Explanation to Rule 43 has been substituted to clarify that the aggregate value of exempt supplies shall exclude:
 1. Value of Supply of services having place of supply in Nepal

or Bhutan, against payment in Indian Rupees.

- Value of services by way of accepting deposits, extending loans, or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution.

- The value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

- Insertion of Sub-rule (1A) in Rule 54:** (1A)(a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the specified details like name, GSTN, Signature etc.

- Insertion of Rule 55 A in Rule 55:** 55A. Tax Invoice or bill of supply to accompany transport of goods.

The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

- Substitution of Sub Rule 4A & 4B IN Rule 89:** Following sub-rules shall be substituted with effect from 23rd October, 2017:

(4A) In the case of supplies received on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated the 18th October, 2017(Supply of goods deemed as export), refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

(4B) In the case of supplies received on which the supplier has availed the benefit of notification No. 40/2017-Central Tax (Rate) dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, or notification No. 78/2017- Customs dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017 or all of them, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.

- Substitution in Rule 138:** Following amendments would have effect from 1st February ,2018:

- Insertion in Rule 138 has been made to provide that Person who is required to furnish information in Part A of Form GST EWB-01, electronically on the common portal now shall furnish such other information also as may be required at the common portal and a unique number will be generated on the said portal.

- Explanation 2 has been added to Rule 138 to provide that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery Challan, as the

case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document.

- Proviso to Sub-rule 2 of Rule 138 has been inserted to provide that where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall furnish, on the common portal, the

(a) information in Part B of FORM GST EWB-01; and

(b) The serial number and date of the Railway Receipt or the Air Consignment Note or Bill of Lading, as the case may be.

- Sub-rule 5 has been amended to provide that where the goods are transferred from one conveyance to another, the consignor or the recipient or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the E-way bill. Earlier only transporter was allowed to update the same.

- Sub-rule 5A has been inserted to provide that the consignor or the recipient, who has furnished the information in Part-A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered transporter for updating the information in Part-B of FORM GST EWB-01 for further movement of consignment. Provided that once the details of the conveyance have been updated by the transporter, the consignor or recipient, as the case maybe, who has furnished the information, shall not be allowed to assign the e-way bill number to another transporter.

- Proviso to sub-rule 7 has been inserted to provide that where the goods to be transported are supplied through an e-commerce operator, the information in Part A of FORM GST EWB-01 may be furnished by such ecommerce operator.

- Proviso to Sub-Rule 9 has been inserted to provide that the unique number generated under sub-rule (1) shall be valid for 72 hours for updation of Part B of FORM GST EWB-01.

- Sub-rule 11 has been amended to provide that the details of E-way bill generated shall be made available to the

(a) supplier, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the recipient or the transporter; or

(b) recipient, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the supplier or the transporter,

Earlier, these details were made available to recipient only who communicates his acceptance or rejection of the consignment covered by the e-way bill.

- Insertion of clause (e) , (f) , (g) in sub- rule 14 has been made to provide that No e-way bill is required to be generated -

- where the goods, other than de-oiled cake, being transported are specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28th June, 2017

- where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel,

motor spirit (commonly known as petrol), natural gas or aviation turbine fuel; and

- Where the goods being transported are treated as no supply under Schedule III of the Act.

[Notification No. 3/2018–Central Tax dated 23rd January, 2018]

Reduction in Late Fees

The Central Government vide Notification no. 4/2018 dated 23rd January, 2018; Notification no. 5/2018 dated 23rd January, 2018; Notification no. 6/2018 dated 23rd January, 2018; Notification no. 7/2018 dated 23rd January, 2018 has notified that the late fee payable by any registered person for failure to furnish the following Forms has been reduced to Rs.50/ Rs.20 based on the type of Return filed by assessee.

SI No.	Form	Nil return Filers	Others
1.	FORM GSTR 1 (supply details)	Rs. 20 per day	Rs. 50 per day
2.	FORM GSTR-5 (Non-resident taxable person)	Rs. 20 per day	Rs. 50 per day
3.	FORM GSTR-5A (OIDAR)	Rs. 20 per day	Rs. 50 per day
4.	FORM GSTR-6 (Input Service Distributor)	Rs. 50 per day	Rs. 50 per day

Extension in time limit for furnishing the return by an ISD

The Central Government vide Notification no. 8/2018– Central Tax dated 23rd January, 2018 has notified that the time limit for furnishing the return by an Input Service Distributor in Form GSTR-6 for the month of July, 2017 to February, 2018 has been extended to 31st March, 2018.

Electronic Portal for furnishing of returns and E- way bill.

The Central Government vide Notification No. 9/2018 – Central Tax dated 23rd January, 2018 notified www.gst.gov.

in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax and www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill. This notification shall be deemed to have come into force with effect from the 16th day of January, 2018.

Clarifications regarding GST on College Hostel Mess Fees

The Central Government vide Corrigendum to Circular No. 28/02/2018-GST dated 08th January 2018 has clarified that catering service when provided by an educational institute is exempt under Notification no. 12/2017 –central tax (Rate). However, If the catering services is provided by anyone other than the educational institution, then it is a supply of service and attracts GST of 5% provided that credit of input tax charged on goods and services used in supplying the service has not been taken.

[Corrigendum to Circular No. 28/02/2018-GST dated 08th January 2018]

GST Helpdesk

To enable taxpayers to express their issues and problems related to GST system and its services, GSTN has launched a Self-Help Portal as a single platform where tax payer call log tickets for any issues or concerns for quick resolution. This portal has been functional Since 22nd Jan, 2018.

The new system is user friendly and the tax payer can articulate and explain the issues faced by them in effective manner. Please note: GST help desk mail box: helpdesk@gst.gov.in has been discontinued. Link of self-help portal is <https://selfservice.gstsystem.in/>

Clarifications regarding Levy of GST on Accommodation services, betting and gambling in casinos, horse racing, admission to cinema, homestays, printing, legal services etc.

The Central Government vide Circular no. 27/01/2018-GST dated 4th January, 2018 has clarified certain issues regarding levy of GST on supply of services which are as follows:

SI. N o.	Questions/clarifications sought	Clarifications
1.	1. Will GST be charged on actual tariff or declared tariff for accommodation services? and what if cost goes up (more than declared tariff) owing to additional bed	Declared or published tariff is relevant only for determination of the tax rate slab. GST will be payable on the actual amount charged (transaction value). For example, if the declared tariff is Rs. 7000 per unit per day but the amount charged from the customer on account of extra bed is Rs. 8000, GST shall be charged at 18% on Rs. 8000
	2. Where will the declared tariff be published?	Tariff declared anywhere, say on the websites through which business is being procured or printed on tariff card or displayed at the reception will be the declared tariff. In case different tariff is declared at different places, highest of such declared tariffs shall be the declared tariff for the purpose of levy of GST
	3. Same room may have different tariff at different times depending on season or flow of tourists as per dynamic pricing. Which rate to be used then?	In case different tariff is declared for different seasons or periods of the year, the tariff declared for the season in which the service of accommodation is provided shall apply.

4.	If tariff changes between booking and actual usage, which rate will be used?	Declared tariff at the time of supply would apply.
5.	GST at what rate would be levied if an upgrade is provided to the customer at a lower rate?	If declared tariff of the accommodation provided by way of upgrade is Rs 10000, but amount charged is Rs 7000, then GST would be levied @ 28% on Rs 7000/-.
2.	Vide notification No. 11/2017- Central Tax (Rate) dated the 28th June 2017 entry 34, GST on the service of admission into casino under Heading 9996 (Recreational, cultural and sporting services) has been levied @ 28%. Since the Value of supply rule has not specified the method of determining taxable amount in casino, Casino Operators have been informed to collect 28% GST on gross amount collected as admission charge or entry fee. The method of levy adopted needs to be clarified	<p>“Heading 9996 (Recreational, cultural and sporting services) - ... (iii) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, theme parks, water parks, joy rides, merry-go rounds, go carting, casinos, race-course, ballet, any sporting event such as Indian Premier League and the like. - 14% (v) Gambling. - 14 %”</p> <p>As is evident from the notification, “entry to casinos” and “gambling” are two different services, and GST is leviable at 28% on both these services (14% CGST and 14% SGST) on the value determined as per section 15 of the CGST Act. Thus, GST @ 28% would apply on entry to casinos as well as on betting/ gambling services being provided by casinos on the transaction value of betting, i.e. the total bet value, in addition to GST levy on any other services being provided by the casinos (such as services by way of supply of food/ drinks etc. at the casinos). Betting, in pre-GST regime, was subjected to betting tax on full bet value</p>
3.	The provision in rate schedule notification No. 11/2017-Central Tax (Rate) dated the 28th June 2017 does not clearly state the tax base to levy GST on horse racing. This may be clarified.	GST would be leviable on the entire bet value i.e. total of face value of any or all bets paid into the totalisator or placed with licensed book makers, as the case may be. Illustration: If entire bet value is Rs. 100, GST leviable will be Rs. 28/
4.	1. Whether for the purpose of entries at Sl. Nos. 34(ii) [admission to cinema] and 7(ii)(vi)(viii) [Accommodation in hotels, inns, etc.], of notification 11/2017-CT (Rate) dated 28th June 2017, price/ declared tariff includes the tax component or not?	Price/ declared tariff does not include taxes.
	2. Whether rent on rooms provided to in-patients is exempted? If liable to tax, please mention the entry of CGST Notification 11/2017- CT(Rate)	Room rent in hospitals is exempt.
	3. What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?	Any service by way of serving of food or drinks including by a bakery qualifies under section 10 (1) (b) of CGST Act and hence GST rate of composition levy for the same would be 5%
5.	Whether homestays providing accommodation through an Electronic Commerce Operator, below threshold limit are exempt from taking registration?	Notification No. 17/2017-Central Tax (Rate), has been issued making ECOs liable for payment of GST in case of accommodation services provided in hotels, inns guest houses or other commercial places meant for residential or lodging purposes provided by a person having turnover below Rs. 20 lakhs (Rs. 10 lakhs in special category states) per annum and thus not required to take registration under section 22(1) of CGST Act. Such persons, even though they provide services through ECO, are not required to take registration in view of section 24(ix) of CGST Act, 2017.

6.	To clarify whether supply in the situations listed below shall be treated as a supply of goods or supply of service: -1. The books are printed/ published/ sold on procuring copyright from the author or his legal heir. [e.g. White Tiger Procures copyright from Ruskin Bond] 2. The books are printed/ published/ sold against a specific brand name. [e.g. Manorama Year Book] 3. The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian edition (same language) of foreign books. [e.g. Penguin (India) Ltd. pays fees to Routledge (London)] The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian language edition (translated). [e.g. Ananda Publishers Ltd. pays fees to Penguin (NY)]	The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to sell those books on his own account.
7.	Whether legal services other than representational services provided by an individual advocate or a senior advocate to a business entity are liable for GST under reverse charge mechanism?	Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, i.e. the business entity.

New Releases on GST Portal

Following new functionalities were made available on GST portal for Taxpayers:

A) Registration:

- a) Form for application of cancellation of registration by (new) taxpayer, is now available on GST portal.
- b) Mobile number and E-mail address of Authorised signatory can be updated through the following process:
 - Update E-mail address and mobile number of Authorised signatory in Registration details.
 - Attach Request letter than submit the request for updating.
 - Thereafter network will ask for confirmation of changes made.
 - On clicking "ok" modification will be communicated to the tax payer through common portal.

B) Returns:

- a) Taxpayers have been provided facility to give details of supplies made to merchant exporters at rate of 0.1 %, in all returns.
- b) Taxpayer has now been provided with Table 9 of Form GSTR 1, to give amendment details of invoices/ credit or debit notes etc. of previous period.
- c) GSTR 4 and Composition Return Dashboard: Composition tax payers have to file quarterly return and Normal tax payers have to file monthly returns in GST Regime. For the taxpayers who have opted in to composition scheme and taxpayers who have opted out from the composition scheme as normal tax payer, provision to file both monthly/quarterly returns (in the interim period), has

been enabled on the GST Portal.

- d) Track Return status: Track Return Status is now available post login to taxpayers on the GST Portal, to track the status of submitted/filed return.
 - e) Form GSTR 5: Creation and submission of Form GSTR 5 by Non-resident taxable person is now available on GST Portal, for giving details of ITC taken, amendments, supplies made etc by them.
 - f) Table 6A of Form GSTR 1 workaround has been disabled at GST portal due to the fact that the Form GSTR 1 for further period can now be filed by the taxpayers. The taxpayers are required to fill the details of tax paid on exports made by them in Table 6A at the time of filing GSTR 1 for the relevant tax period. In case the tax payer has already submitted Table 6A of Form GSTR 1 for the relevant tax period before filing GSTR 1 for the relevant tax period, he is not required to fill information in Table 6A at the time of filing GSTR 1 for the same tax period as these details will be auto populated in the relevant tab in the for GSTR 1. The previously filed Table 6A of Form GSTR 1 may be viewed by ARN Search.
 - g) As the last date for filing Form GST-TRAN 1 is over on 27/12/2017 therefore, Form GST-TRAN 01 has been disabled at GST portal.
 - h) Issues coming to taxpayers while filling up of amendment tables in offline utility of Form GSTR 1 has been fixed.
- C) Refunds:** Taxpayers has been provided with the facility on GST Portal to claim refund of
- a) Exports of services with payment of Tax
 - b) ITC accumulated due to inverted tax structure [under clause (ii) of first provision to section 54(3)]

- c) On account of supplies made to SEZ unit/ SEZ Developer (with payment of tax)
- d) On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)
- e) Recipient of deemed exports
- f) Pre-login tracking of refund status with ARN (<https://refund.gst.gov.in/refunds/pre/trackarnstatus>)

D) Offline Tool for Form GST TRAN 2: An offline tool to fill and upload data for TRAN 2 is now available to taxpayers on the GST portal. (<https://www.gst.gov.in/download/trans2>). TRAN 2 is statement for unregistered person under existing law, now registered in GST, to avail credit on goods held in stock on the appointed day, in respect of which they are not in possession of any document evidencing payment of duty. (Refer Rule 117(4) of CGST rules).

E) Online GST grievance enabled on GST portal: Taxpayers are now being provided with a facility to lodge grievance related to processes (application), ledgers, payments etc. on the GST portal.

The following type of complaints can be submitted online:

1. Complaint against grievance relating to processes (Application)
2. Complaint against registered taxpayer, unregistered person or an entity
3. Grievance against ledgers/ Registers
4. Grievance against Payment (GST PMT 07)
5. Others

The following details of taxpayers against who is reporting the grievance is being reported are required to lodge an online complaint:

1. GSTIN/ other ID
2. Name and Address of business
3. E-mail address
4. Name of complainant and Mobile number

The description of grievance can be given in maximum 4000 characters and document in support thereto can also be uploaded in PDF or JPEG format. Maximum file size for upload is 500 kb.

Link for online complaint <https://services.gst.gov.in/services/grievance>

[gst.gov.in]

Clarifications regarding GST on College Hostel Mess Fees

The Central Government vide Circular No. 28/02/2018-GST dated 08th January 2018 has clarified that Supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit irrespective of the fact that service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.

[Circular No. 28/02/2018-GST dated 08th January 2018]

CUSTOMS

Guidelines for the sale of seized/confiscated gold

The Central Government vide Circular No. 01/2018 - Customs dated 11th January, 2018 has clarified that in addition to the centre(s), viz, Mumbai, New Delhi, Calcutta, Chennai, Ahmedabad, Jaipur, Cochin, Bangalore and Shillong, the sale of seized / confiscated gold found ripe for disposal can be done at all the centres of State Bank of India, all Public Sector Banks (approved by RBI to import and sell gold), MMTC Ltd. and STC Ltd which also have authorisation from their competent authorities / head offices to dispose/sell the seized/confiscated gold handed over to them.

[Circular No. 01/2018 - Customs dated 11th January, 2018]

Know your Customer Norms

The Central Government in order to simplify the norms for KYC verification in the light of introduction of Goods & Service Tax (GST) has clarified vide Circular No. 02/2018-Customs dated 12th January, 2018 that in the case of import or export through courier by a firm, company, institution registered under GST Laws. GSTIN shall suffice as the document for the purpose of KYC verification. In cases where the firm, company or institution is not registered under GST Laws. Unique identification Number (UIN) or PAN shall serve as the document for KYC verification. Further, packages containing letter or document shall be exempt from requirement of KYC verification however it shall be the responsibility of the authorised courier that all such packages are subjected to x-ray to ensure that the packages do not contain any item other than letters or documents.

Implementation of E-way Bill deferred

The Central Government vide Notification no. 11/2018-Central Tax (Rate) dated 2nd February, 2018 rescinded the Notification No. 74/2017-Central Tax dated the 29th December, 2017 whereby 1st day of February, 2018 was notified as the date from which the provisions of E-way bill system will be implemented. However, due to system glitches, the implementation of the E-way Bill has been deferred.



COMPOSITION LEVY

The word 'composition' comes from the Latin componere, meaning "put together". It is a feature of Indirect Tax laws that in order to provide a comfort to assessee from complying with the requirement of paying tax on value addition by maintaining detail of 'inputs' and 'outputs', an option is provided to go for a put together scheme. The GST law provides the option of availing the benefit of Composition Levy to small businesses. The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Moreover, it is optional and the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of his turnover every quarter, instead of paying tax at normal rate.

Threshold limit for Composition scheme:

The provision related to composition levy is governed by Section 10 of the CGST Act, 2017 ("Act"). The said section provides for an option to the 'Registered person' whose 'aggregate turnover' during preceding FY does not exceed fifty lakh rupees to discharge its GST liability on a composite or nominal rate. The Government, under Section-10(1) of the Act has the power to increase the said limit of fifty lakh rupees to one crore rupees, by way of a notification, on recommendation of GST Council.

In exercise of the power conferred under Section – 10(1) of the Act, Central Government by way of Notification No- 8/2017-CT dated 27th June-2017 prescribed the limit of Rs. Seventy-five lakh rupees which was subsequently increased to Rs. One crore by Notification No. 46/2017-CT dated 13th October-2017.

For special category states as specified in sub-clause (g) of clause (4) of article 279A of the Constitution, except Uttarakhand and Jammu and Kashmir aggregate turnover limit was originally specified as fifty lakh rupees by Notification No- 8/2017-CT dated 27th June-2017 which was subsequently increased Rs. seventy-five lakh rupees by Notification No. 46/2017-CT dated 13th October-2017.

The person registered under composition scheme is neither permitted to collect any tax from the recipient of supplies made by him nor can he avail any credit of input tax paid.

The 'aggregate turnover' as defined in GST law is the aggregate value of all:

- taxable supplies (excluding inward supplies on reverse charge),
- exempt supplies,
- exports of goods or services or both and
- inter-State supplies

of persons having the same Permanent Account Number to be computed on all India basis but excludes Central tax, State tax, Union territory tax, Integrated tax and cess.

Composition Rate:

Section-10(1) of the Act provides upper limit for composition rate for different category of registered person. Central Government by way of Notification No- 8/2017-CT dated 27th June-2017 as

amended by Notification No. 01/2018-CT dated 01st January-2018 as prescribed following rates:-

- Manufacturer: One per cent (both CGST and SGST) of the turnover in State or turnover in Union territory.
- Restaurants not serving alcohol: Service provided by Restaurants as specified under paragraph 6(b) of Schedule II as supply, by way of or as part of any service or in any other manner whatsoever of goods, being food or any other article for human consumption of any drink (other than alcoholic liquor for human consumption) are leviable at the rate of five percent (two and half of CGST and two and half for SGST) under composition scheme.
- Other suppliers: One per cent of the turnover taxable supplies of goods in State or turnover in Union territory. It should be noted that in this case aggregate turnover shall not be leviable to composition rate only turnover of taxable supplies shall be leviable to composition levy.

The registered person opting for composition levy shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both.

Eligible Person:

The Composition scheme can be availed by the following categories of registered persons:

- He is not engaged in the supply of service other than supplies referred to in clause (b) of paragraph 6 of Schedule II (Restaurant Service).
- Person not engaged in making any supply of goods which are not leviable to tax under GST Laws.
- Person not engaged in inter-state outward supplies of goods.
- The registered person should not be engaged in making any supply of goods through an electronic commerce operator. This restriction constrains numerous small suppliers/vendors from availing benefit of composition scheme. Although there is a valid reason behind the imposition of this restriction - the supply from an e-commerce operator may result in inter-state outward supplies in many cases.
- The taxable person should not be a manufacturer of such goods as may be notified by the Government on the recommendations of the Council. Central Government by way of Notification No. 8/2017-CT has specified goods manufacturers of which shall not be eligible for this scheme.

S. No.	Classification	Description
1	2105 00 00	Ice cream and other edible ice products, whether or not containing cocoa
2	2106 90 20	Pan Masala
3	24	Tobacco and manufactured tobacco substitutes

The conditions and restrictions for composition levy as provided in Rule-5 of the Central Goods and Service Tax Rules, 2017 (“Rules”) are as follows:

- The person should neither be a casual taxable person nor a non-resident taxable person.
- The goods held in stock on the appointed day had not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State,
- The goods held in stock by him have not been purchased from an unregistered person and where purchased, he pays the tax under reverse charge basis in compliance of sub-section (4) of section 9 of the Act;

The benefit of composition scheme will be available only when all the registered entities under a single Permanent Account Number opts for such scheme.

How to Opt Composition Scheme?

This option can be exercised in three possible scenarios: -

S. No.	Various Scenarios of opting the scheme	How to opt	Effective date for Composition
1	The taxable person migrating to GST from previous regime	Can opt by filing FORM GST CMP-01 not later than 30 days or such further period as may be extended, from the Appointed date.	Effective from Appointed date
2	Person taking new registration under GST	Can opt at the time of obtaining registration in Part B of FORM GST REG-01	Effective form the date of registration
3	A registered person under GST opting for composition scheme	May opt by filing FORM GST CMP-02 prior to commencement of FY for which option is exercised	Effective from the beginning of the financial year
4	The taxable person migrating to GST from previous regime and Person taking new registration under GST (one time) but opting for Composition Scheme after the appointed date or his date of registration	By filing intimation in FORM GST CMP-02	Effective from the first day of the month immediately succeeding the month in which he files an intimation

Any registered person who has availed of input tax credit and also opts to pay tax under Composition Scheme, then, such person shall be required to pay an amount equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option. However, if after such payment any balance of input tax credit is left lying in his electronic credit ledger, such balance shall lapse. Statement of such input tax shall be filed in Form GST ITC-03.

Returns:

The persons paying tax under composition scheme are required to pay tax on quarterly basis and also required to file a quarterly return in FORM GSTR-4 by the 18th of the month following the end of the quarter instead of any statement of outward or inward

supplies. The proper officer may cancel the registration where the said person has not furnished returns for three consecutive tax periods. Registered person opting for composition levy have to file Annual Return in FORM GSTR-9A.

Invoice :

A registered person opting for composition scheme shall not issue a tax invoice. He shall issue a BILL OF SUPPLY containing various details as given below: -

- Name, address and GSTIN of the supplier
- a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year
- date of its issue
- name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient
- Harmonised System of Nomenclature Code for goods or

services

- description of goods or services or both
- value of supply of goods or services or both taking into account discount or abatement, if any; and
- signature or digital signature of the supplier or his authorised representative

Registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees. The person shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him. The person shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

Validity and Withdrawal

The option exercised by registered person to pay tax under composition scheme shall remain valid so long as he satisfies all the conditions. He may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

The option to pay tax under composition scheme lapses from the day on which his aggregate turnover during the financial year exceeds the specified limit (Rs. 1 Cr/Rs. 75 lakhs) or he ceases to satisfy any of the conditions of this Scheme. He is required to file an intimation for withdrawal from the scheme in FORM GST CMP-04 within seven days from the day on which the threshold limit has been crossed. A registered person paying tax under this scheme may also voluntarily opt out by filing FORM GST CMP-04.

Contravention of any provisions of Composition levy

Where any contravention is observed by the proper officer wherein the registered person was not eligible to pay tax under the composition scheme or has contravened the provisions of the Act or provisions of the CGST Rules, 2017, he may issue a notice to such person in FORM GST CMP-05 to show cause within fifteen days of the receipt of such notice as to why the option to pay tax under the composition scheme shall not be denied.


Upon receipt of the reply to the said show cause notice in FORM GST CMP-06, the proper officer shall issue an order in FORM GST CMP-07 within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under the composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.

Further, Section 12(5) of Act provides that If the proper officer has reasons to believe that a taxable person has paid tax under Composition scheme despite not being eligible, then, in addition to any tax that may be payable by him under any other provisions of this Act, the taxable person shall also be liable to a penalty.


Conclusion

The Composition scheme provides a short window for those who fulfill the criterion to organize themselves as the limit of Rs. 1 crore / 75 Lakhs is meagre. The possibility of many of the uneducated/ unorganized traders and manufacturers (job workers) not understanding GST and its implications is very high. Only those who are selling to consumers in the last mile of the supply chain would find Composition worthwhile. The trade associations catering to the smaller businesses wish to have the restriction on interstate sale be removed and tax the same at full rate with credit.

Contributed by Jaipur Study Group



INDIRECT TAXES COMMITTEE (IDTC) OF ICAI
A ONE STOP DESTINATION FOR INDIRECT TAXES i.e. IDTC
 website: www.idtc.icai.org



The Indirect Taxes Committee of ICAI has launched its website viz. www.idtc.icai.org to provide the users a well set platform for sharing and gaining knowledge on indirect taxes and easy accessibility to the Indirect taxes Committee. The Committee works relentlessly towards keeping the members abreast with the latest changes in the Indirect tax laws vide various mediums like, organising programmes, updating study materials, sending regular updates etc.

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Secretary
Indirect Taxes Committee
 The Institute of Chartered Accountants of India
 ICAI Bhawan, A-29, Sector - 62, NOIDA (U.P.), India
 Telephone Direct - +91 120 3045 954, Telephone Board - +91 120 3045 900 Ext. 954
 Website: <http://www.idtc.icai.org> / ✉ idtc@icai.in
 for help please visit: <http://help.icai.org/>

ELECTRONIC WAY BILL

Executive summary

GST is touted to be the biggest reform in India's taxation system which is expected to boost the country's growth rate. Industry experts and analysts have said that the e-Way Bill is likely to be the game changer in the present Indian economy. Registered entities will have to pre-register the goods on GST portal before commencement of movement of goods. For quick and easy movement of goods across India without any hindrance, all the check posts across the country are abolished. E-Way Bill will enable tracking of movement of goods and prevent tax evasion by way of unauthorized movement of goods.

Way bill under earlier Vat system

Way bill is a document that allows movement of goods. The compliance around way bills had led to restricted movement of goods across states. Way bill compliance had been a nightmare in the pre-GST era. Sale of goods did not take place without obtaining 'way bills' from VAT authorities.

A large amount of trade in the transport and logistics sector traditionally happened with little accountability and major tax avoidance. Now, consigners as well as consignees are stumped with the GST regime, which requires robust compliance at all levels. Further, there were about 25 lakh transport intermediaries – people who ferry goods from one part of the country to another either directly or through freight forwarders – but only few of these were registered under the 'Carriage by Road Act' which was a mandatory step till the GST regime came into place. As a majority of the stakeholders remain unregistered, they are unable to operate under the GST regime, scared of getting caught. It could take at least a couple of quarters to bring the situation back to normal.

E-Way Bill system under GST

With the introduction of GST, the entire nation has become one common market. For movement of goods from one State to another State, Transit Pass shall not be required anymore. Analysts at ratings agency Fitch said in a note to clients that GST should offer significant opportunities for productivity. It will become much quicker and less costly to move goods across the country now that trucks will not be held up at checkpoints at state borders. Smoother logistics should reduce retailers need for working capital and allow them to operate centralized warehouses, rather than in every state.

Notification No. 9/2018 – Central Tax dt .23-01-2018 has been issued for notifying www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill.

There are some pre-requisites for generating an E-Way Bill:

- Registration on the e-Way Bill portal.
- The Invoice/Bill/Challan related to the consignment of goods must be in hand.
- If transport is by road – Transporter ID or the Vehicle number.
- If transport is by rail, air, or ship – Transporter ID, Transport document number, and date on the document.

Registration procedure On E-Way Bill Portal for Registered users:

- Register by entering GSTIN on e-Way Bill Portal.

- Authentication is done with an OTP sent on their registered mobile number.
- User can create Username and password to use E-Way Bill Portal.

Enrolment procedure for GST unregistered Transporters/others:

- Enroll by providing PAN details on e-Way Bill portal.
- Authentication is done with OTP sent through Aadhaar registered mobile number.
- User enters other business details in e-Way Bill portal.
- User can create username and password to use e-Way Bill portal.

E-Way Bill is an electronic way bill for movement of goods, which has to be generated digitally. It will act as a proof of valid supply under GST. However, it cannot be generated offline in physical form or manually from tax department anymore. The e-Way Bill (EWB) portal provides a seamless gateway to generate e-Way Bills (single and consolidated options), change vehicle number on the already generated e-Way Bills, cancel generated e-Way Bills.

E-way bills can be generated by any of the following methods:

- Web-online using browser on laptop or desktop.
- Android based Mobile App on mobile phones.
- Via SMS through registered mobile number.
- Via API (Application Program Interface) i.e. integration of IT system of user with e-Way Bill system for generation of e-Way Bill.
- Tool-based bulk generation of e-Way Bills.
- Third-party based system of Suvidha Providers.

Applicability:

- E-Way Bill has been rolled out on a trial basis from 16th January 2018
- The states can opt to follow the e-Way Bill system for intra-state transport anytime latest by 1st June 2018, after which it becomes mandatory for all states.

Rule 138 provides for the E-Way Bill mechanism:

1. Information to be furnished prior to commencement of movement of goods and generation of e-Way Bill

i. E-Way Bill Generator:

E-Way Bill shall be generated who causes movement of goods of consignment value exceeding fifty thousand rupees:

- Every registered person before movement of goods.
- If an unregistered person supplies goods to a registered dealer, all the compliance shall be done by the recipient as if he is the supplier. If such unregistered person generates an e-Way Bill, then the status of the e-Way Bill would be updated to the registered mobile number or email of the unregistered person, if available.
- Transporter of goods shall generate the e-Way Bill before movement of such goods if both the consignor and consignee do not generate it.

However, irrespective of the value of consignment, the e-Way Bill shall be generated where:

- Goods are sent by a principal located in one state to a job worker located in any other state.
- Handicraft goods are transported from one state to another by a person who has been exempted from the requirement of obtaining registration.

ii. Time of generation of an E-Way Bill :

e-Way Bill will be generated when there is movement of goods –

- In relation to a 'supply'
- For reasons other than a 'supply' (For example, a return)
- Due to inward 'supply' from an unregistered person.

iii. Meaning of 'supply' in case of E-Way Bill:

A supply may have the following meanings in case of e-Way Bill

- Supplied for a consideration in the course of business.
- Supplies made for a consideration which may not be in the course of business.
- Supplies without consideration.

Hence, E-Way Bills must be generated in Part A of FORM GST EWB-01, on the common portal for all types of movements.

However, e-Way Bill is not required to be generated in the following cases:

- Transport of specified goods (Annexure containing 154 items).
- Transport of goods within 10 km radius provided transport is within the same state.
- Transport of goods by a non-motorised conveyance.
- Transport of goods from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs.
- Movement of goods within notified areas.

iv. Acceptance:

The details of e-Way Bill will be communicated to the registered recipient for his acceptance or rejection of the consignment (deemed acceptance after 72 hours).

v. Auto Populated from Tax Invoice:

If a registered person uploads a tax invoice issued by him in FORM GST INV-1, the information in Part A of Form GST EWB - 01 will be auto populated.

vi. Information will flow in GSTR-1:

Information in Part A of Form GST EWB-01 shall be used for preparing GSTR-1.

The contents of Part A are:

- GSTIN of Recipient • Place of Delivery • Invoice or Challan Number • Invoice or Challan Date • Value of Goods • HSN Code • Reason for Transportation • Transport Document Number.

vii. Information in Part B of FORM GST EWB - 01 is required to be furnished:

- If the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by

railways or by air or by vessel, then the registered person or the recipient may generate the e-Way Bill after furnishing the information in Part B of Form GST EWB – 01; or

- If e-Way Bill is not generated in the aforesaid manner and the goods are handed over to a transporter for transportation by road, then, the registered person shall furnish the information relating to the transporter and he shall generate the e-Way Bill after furnishing the information in Part B of Form GST EWB – 01.
- If goods are transported for a distance of less than 10 km within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.
- The content of Part B is Vehicle Number.

viii. EBN (E-Way Bill Number):

Upon generation of e-Way Bill on the common portal, a unique e-Way Bill number (EBN) will be made available to the supplier, recipient and to the transporter on the common portal. This will serve as an electronic permit for within the state and across state borders.

ix. Voluntarily/ Suo Moto Generation of E-Way Bill:

- The registered person or transporter may, at his option, generate and carry the e-Way Bill even if the value of consignment is less than Rs. 50,000.
- When the movement of goods is caused by unregistered person to an unregistered person, he or the transporter may at their own option, generate the e-Way Bill.

x. Uniformity:

The e-Way Bill generated under the CGST rules or SGST rules of a State shall be valid in every State and Union Territory.

xi. Transfer of goods from one conveyance to another during transit:

At times, a lorry may not have a pan-India permit, or there could be unforeseen circumstances such as an accident. Thus, in the course of transit, goods would be transferred from one vehicle to another. In this case, before such transfer and further movement of goods, transporter shall update the details of conveyance in the e-Way Bill on the common portal in FORM GST EWB-01.

However, if the goods are transported for a distance of less than 10 km within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-Way Bill.

xii. Transportation of multiple consignments in one conveyance:

After e-Way Bill has been generated, where multiple consignments are to be transported in one vehicle (say, a lorry is catering to three different suppliers), the transporter may indicate the serial number of the E-way bills generated in respect of each such consignment on the GSTN portal and a consolidated e-Way Bill may be generated before the movement of goods.

If the consignor or the consignee has not generated FORM GST EWB-01 and the value of goods carried in the conveyance is more than Rs 50,000, the transporter shall generate FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be. He may also generate a consolidated e-Way Bill in FORM GST EWB-02 on the common portal before movement of goods.

Illustration:

If the individual consignment made by a supplier X is of value Rs. 49,000 and Supplier Y is of value Rs. 19,000, then they are not required to generate e-Way Bill. But, if the aggregate value of all the goods carried in the conveyance is more than Rs. 50,000 then the transporter shall generate e-Way Bill on the basis of Invoices/ Bill of Supply/ Delivery challan before the movement of goods. So, in this case, if the transporter carries the goods of both Supplier X and Supplier Y, then the transporter needs to generate e-Way Bill and also to generate a consolidated e-Way Bill on the common portal prior to the movement of goods.

xiii. Cancellation of E-Way Bill:

Bills will be automatically cancelled if goods are either not transported or not transported as per the details furnished in the e-Way Bill within 24 hours of generation of the e-Way Bill.

However, such e-Way Bill cannot be cancelled if it has been verified in transit.

xiv. Validity Period of E-Way bill:

Distance	Validity
Upto 100 km	1 day
For every 100 km or part thereof thereafter	1 additional day

Such validity shall commence from the date and time at which e-Way Bill is generated. Each day shall be counted as 24 hours.

Every time the validity is breached, a new bill will have to be generated.

The Commissioner may, by notification, extend the validity period of e-Way Bill for certain categories of goods as may be specified therein.

2. Documents and devices to be carried by a person-in-charge of a conveyance

- i. The person in charge of a conveyance shall carry:
 - The invoice or bill of supply or delivery challan, as the case may be; and
 - A copy of the e-Way Bill or the e-Way Bill number, either physically or mapped to a Radio Frequency Identification Device (RFID) embedded on to the conveyance in such manner as may be notified by the Commissioner.
- ii. The Commissioner, in case of special circumstances, may, by notification, require the person-in-charge of conveyance to carry the following documents instead of the electronic way bill-
 - tax invoice or bill of supply or bill of entry; or
 - a delivery challan, where the goods are transported other than by way of supply.

- iii. A registered person may obtain an Invoice Reference Number from the common portal by uploading a tax invoice issued by him in form GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for 30 days from the date of uploading.
- iv. To avoid verification of the physical copy of the e-Way Bill, the Commissioner may, by notification, require a class of transporters to obtain a unique RFID and get the said device embedded on to the conveyance and map the e-Way Bill to the RFID prior to the movement of goods.

3. Inspection and verification of goods

- In case of inspection of goods in transit, a summary Report within 24 hours of inspection, and the final Report within 3 days of inspection, shall be recorded online.
- Physical verification can only occur once during the entire transit period unless specific information relating to evasion of tax is received, indicating the need for another inspection.

4. Verification of documents and conveyance

- The commissioner or an officer empowered by him may authorize an officer to stop a consignment to verify e-Way Bill.
- Tax officials would be empowered to inspect the e-Way Bill or the e-Way Bill number in physical form for all interstate and intrastate movement of goods at any time during the journey to check for tax evasion.
- Physical verification of conveyances may also be done. In case there is 'specific information' of tax evasion, physical verification of a conveyance can also be done by an authorized officer.

5. Facility for uploading information regarding detention of vehicle

If a vehicle has been intercepted and detained for more than 30 minutes, the transporter may upload the said information in FORM GST EWB - 04 on the common portal.

List of E-Way Bill Relevant Forms

FORM GST EWB -01	Furnish information prior to commencement of movement of goods.
FORM GST EWB -02	Furnish information regarding consolidated e-Way Bill in case of multiple consignments.
FORM GST EWB -03	Summary report of every inspection of goods in transit recorded by proper officer.
FORM GST EWB -04	Uploading of information regarding detention of vehicle.

Conclusion

With introduction of E-Way Bill, all the existing state-wise documentation required for movement of goods will be eliminated and the proposed e-Way Bill will be made common across the nation. The government is trying to minimize human intervention with the help of digitization. However, it remains to be seen how the small transporters and SMEs cope with this scale of digitalization. The tracking of movement and storage of goods is the key to reduce tax revenue leakage for the Government.

REFUND PROCESS UNDER GST

CATEGORY 1:

Export of Goods with payment of IGST

Application Form: Shipping Bill

Conditions:

- Export Manifest/ Export Report is filed
- Valid Form 3B for the month has been filed
- GSTR 1 for the month has been filed

Customs system to automatically process refund and credit IGST paid electronically to bank account of applicant exporter

Order regarding withholding of refund/ further sanction - to be done manually through FORM GST RFD-07/ FORM GST RFD-06

Points to be noted:

- Correct Shipping Bill Number must be given in Table 6A of GSTR 1
- Invoice numbers for GST (given in GSTR 1) and Customs (as mentioned in shipping bill) should match
- IGST paid amount given in GSTR 1 to tally with IGST amount in shipping bill
- Export General Manifest (EGM) should be filed online and information furnished in EGM and Shipping Bill should match
- Correct Bank Account should be available with Customs
- Shipping bills are available for viewing online on ICEGATE website

CATEGORY 2:

Export of Services with payment of IGST & Supply of Goods or Services with payment of IGST to a SEZ

Application Form: GST RFD – 01A

The form has to be filled manually

The form has to be submitted with the jurisdictional GST Officer – either at Centre or State

Conditions:

- The form has to be submitted with only one officer – either state or centre
- The form has to be accompanied by Statement 2 or 4, as applicable (annexed below)
- Undertaking is required to be submitted that the claim for sanction of refund has been made to only one authority Once application is received, entry has to be made in the refund register maintained by the office of the Jurisdictional Officer

- Declaration to be submitted by claimant that no refund has been claimed against the relevant invoices
- Officer to check whether GSTR 3/ 3B has been filed.
- Deficiencies in documentation to be communicated
- Application to be resubmitted after rectifying deficiencies

- Declaration to be filed by applicant stating that it has not contravened Rule 91(1) of the CGST Rules
- Processing of grant of provisional refund to be completed within 7 days – FORM GST RFD-04
- Payment Advice FORM GST RFD-05
- Refund to be made directly to bank account mentioned in registration

Acknowledgement in GST RFD – 02 to be issued within 15 days from date of filing/ resubmission of application

Final order to grant refund to be issued within 60 days from date of GST RFD – 02 – after due verification of documentary evidence and detailed scrutiny

Statement 2

Refund Type: Exports of services with payment of tax

(Amount in Rs.)

Sr. No.	Invoice details			Integrated tax		Cess	BRC/ FIRC		Integrated tax and cess involved in debit note, if any	Integrated tax and cess involved in credit note, if any	Net integrated tax and cess (6+7+10 - 11)
	No.	Date	Value	Taxable value	Amt.		No.	Date			
1	2	3	4	5	6	7	8	9	10	11	12

Statement 4

Refund Type: On account of supplies made to SEZ unit or SEZ Developer (on payment of tax)

(Amount in Rs.)

GSTIN of recipient	Invoice details			Shipping bill/ Bill of export/ Endorsed invoice by SEZ		Integrated tax		Cess	Integrated tax and cess involved in debit note, if any	Integrated tax and cess involved in credit note, if any	Net Integrated tax and cess (8+9+10 - 11)
	No.	Date	Value	No.	Date	Taxable value	Amt.				
1	2	3	4	5	6	7	8	9	10	11	12

CATEGORY 3:

Export of Services/ Goods or Supply of Goods or Services to SEZ without payment of IGST

Application Form: GST RFD – 01A

The form has to be filled online

Unutilised input tax credit will be claimed as refund

Amount claimed as refund will be debited in electronic credit ledger and ARN reflecting proof of debit shall be generated

Printout of the form has to be submitted manually with the jurisdictional GST Officer – either at Centre or State

Conditions:

- The form has to be submitted with only one officer – either state or centre
- The form has to be accompanied by Statement 5, (annexed below)
- The ARN will be mentioned on the FORM GST RFD-01A submitted manually
- Undertaking is required to be submitted that the claim for sanction of refund has been made to only one authority

Once application is received, entry has to be made in the refund register maintained by the office of the Jurisdictional Officer

Acknowledgement in GST RFD – 02 to be issued within 15 days from date of filing/ resubmission of application

- Declaration to be filed by applicant stating that it has not contravened Rule 91(1)
- Processing of grant of provisional refund to be completed within 7 days – FORM GST RFD-04
- Payment Advice FORM GST RFD-05
- Refund to be made directly to bank account mentioned in registration

- Declaration to be submitted by claimant that no refund has been claimed against the relevant invoices

- Officer to check whether GSTR 3/ 3B has been filed.
- Deficiencies in documentation to be communicated
- Application to be resubmitted after rectifying deficiencies

Final order to grant refund to be issued within 60 days from date of GST RFD – 02 – after due verification of documentary evidence and detailed scrutiny

Statement 5

Refund Type: On account of supplies made to SEZ unit or SEZ Developer (without payment of tax)

(Amount in Rs.)

Sr. No.	Invoice details			Goods/ Services (G/S)	Shipping bill/ Bill of export/ Endorsed Invoice No.	
	No.	Date	Value		No.	Date
1	2	3	4	5	6	7

Statement 5A

Refund Type: On account of supplies made to SEZ unit / SEZ developer without payment of tax (accumulated ITC) – calculation of refund amount

(Amount in Rs.)

Turnover of zero rated supply of goods and services	Net input tax credit	Adjusted total turnover	Refund amount (1×2÷3)
1	2	3	4

CATEGORY 4:**Deemed Exports**

Application Form: GST RFD – 01A

The form has to be filled online

Unutilised input tax credit will be claimed as refund

Amount claimed as refund will be debited in electronic credit ledger and ARN reflecting proof of debit shall be generated

Printout of the form has to be submitted manually with the jurisdictional GST Officer – either at Centre or State

Conditions:

- The form has to be submitted with only one officer – either state or centre
- The form has to be accompanied by Statement 5B (annexed below)
- The ARN will be mentioned on the FORM GST RFD-01A submitted manually
- Undertaking is required to be submitted that the claim for sanction of refund has been made to only one authority
- Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it
- Undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed of by him

- Declaration to be submitted by claimant that no refund has been claimed against the relevant invoices
- Officer to check whether GSTR 3/ 3B has been filed.
- Deficiencies in documentation to be communicated
- Application to be resubmitted after rectifying deficiencies

Once application is received, entry has to be made in the refund register maintained by the office of the Jurisdictional Officer

Acknowledgement in GST RFD – 02 to be issued within 15 days from date of filing/ resubmission of application

- Declaration to be filed by applicant stating that it has not contravened Rule 91(1)
- Processing of grant of provisional refund to be completed within 7 days – FORM GST RFD-04
- Payment Advice FORM GST RFD-05

- Refund to be made directly to bank account mentioned in registration

Statement 5B

Refund Type: On account of deemed exports

(Amount in Rs.)

Sr. No.	Details of invoices of outward supplies in case refund is claimed by supplier/ Details of invoices of inward supplies in case refund is claimed by recipient				Tax Paid			
	No.	Date	Taxable Value	Integrated Tax	Central Tax	State/ Union Territory Tax	Cess	
1	2	3	4	6	7			

DETAILED SCRUTINY

- Detailed scrutiny will be conducted after grant of provisional refund and before issue of final refund order
- The officer shall validate refund statement details with FORM GSTR 1
- The shipping bill details will be verified through ICEGATE SITE
- Details of IGST paid shall be verified with FORM GSTR – 3/ 3B
- Input Tax credit refundable shall be ascertained
- Order stating final refund amount shall be given in FORM GST RFD-06
- If sanctioned refund is less than the applied amount – notice for hearing will be issued
- After receiving reply and giving opportunity of being heard, final order shall be made in FORM GST RFD – 06
- According to the final order further refund shall be paid.
- According to the final order, any amount of credit rejected shall be re-credited to the credit ledger
- Interest, if any shall also be paid
- Pre-audit of manually processed refunds shall not be carried out irrespective of amount involved
- Post-audit of orders may continue.

Contributed by Kolkata Study Group