



ICAI-GST

NEWSLETTER

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





Certificate Course on GST at Noida



Conference on GST at Jaipur



GST Conclave at Patiala



GST workshop at Agra



National Conference on GST at Gurugram



One day State Level workshop on GST at Mysore



Residential Refresher Course on GST at Goa



Seminar on GST at Durgapur

President's Communication



Esteemed professional colleagues,

It's matter of delight that the Goods and Services Tax (GST) will replace multiple taxes system in a single taxation system w.e.f from 1st July, 2017. Implementation of GST would be a win-win situation for all the three stakeholders viz Government, Businessman and consumers. It will also boost economic growth in the country because of development of common market. In a short span of time more than twelve States have already passed their respective State Goods and Services Tax (SGST) Law which reflects the firm commitment of earliest implementation by the Government.

While reviewing the IT Preparedness by GSTN, Revenue Secretary Dr. Hasmukhi Adhia reconfirmed the date of implementation of the GST i.e., 1st July, 2017 as targeted by the Central/State Governments in the GST Council. He further informed that there would be no further extension and migration of the existing taxpayers will start again from 1st June, 2017 as informed by him.

Government is taking all efforts for educating and spreading awareness and making taxpayers and other stakeholders ready for the upcoming regime of GST. CBEC has released the Frequently Asked Questions on GST in regional languages also like Kannada, Malayalam, Punjabi, Telegu in addition to English and Hindi which is a welcome step. This will help the stakeholders in understanding the upcoming law in their own regional language.

ICAI, being a partner in Nation building has always been at the service of the nation as a part of its role in aiding better governance and has been regularly providing its input to the Government in the implementation of GST. We have provided suggestions on the draft GST rules to the Government published various publications on GST including the recent publications namely Background Material on GST Act(s) & Draft Rule(s) 2017 and we are also organizing a series of relevant GST dissemination and training programmes in coordination with Central and State Government as also with trade bodies & associations, etc.

The website of Indirect Taxes Committee of ICAI, too holds offline webcasts and offers regular GST updates, articles, information on upcoming programmes/ seminars, e-publication on GST, etc., to all its registered users. We request our readers to register at the <http://idtc.icai.org/> to get updates on GST.

Let us play a significant part in the implementation of Nation's biggest tax reform.

With best wishes,

CA. Nilesfi S. Vikamsey

President, ICAI

10th May 2017



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GST UPDATES

SGST ACT PASSED BY TWELVE STATES

After receipt of presidential assent on the four GST Acts viz CGST, UTGST, IGST Act and GST (Compensation to States) Act.

Telangana become the first State to pass the GST Bill while other States passing the Bill includes Bihar, Rajasthan, Jharkhand, Chhattisgarh, Uttarakhand, Madhya Pradesh, Haryana, Goa, Gujarat, Maharashtra and Arunachal Pradesh. The possibility of implementation of GST from 1st July, 2017 seems to be a reality since Twelve States have already passed the State Goods and Services Tax (SGST) Act in their respective State Assembly in less than a month's time. The remaining States/UTs (with Legislative Assembly) will also pass the State GST Bill shortly.

DRAFT GST RULES

The government recently released 14 draft GST rules including 5 revised draft rules on Invoice, Payment, refund, registration and return in the public domain, for which suggestions/representations were invited by the government. The suggestions were contributed by all the study groups as well as the Indirect Taxes Committee and were submitted to government on 5th May, 2017. Next (14th) GST Council Meeting is scheduled to be held on 18th and 19th May 2017 at Srinagar, J&K to finalise these rules.

FAQS ON GST IN REGIONAL LANGUAGES

Central Board of Excise and Customs (CBEC) has released Frequently Asked Questions (FAQs) on GST in various regional languages including Kannada, Malayalam, Punjabi, Telegu, Marathi and Assamese to disseminate the knowledge in their local language to various stakeholders. Also, it is expected that these FAQs will be released in other regional languages also.

GST AWARENESS CAMPAIGN BY CBEC

CBEC started a GST awareness campaign (<https://gstawareness.cbec.gov.in>) where various GST workshops are being organized. The details of all the past as well as upcoming awareness events have been uploaded on the website.

GST ENROLMENT

The government declared that Phase-1 of GST was closed on 30th April, 2017 whereby 60.5 lakh taxpayers enrolled out of 84 lakh on the GST Portal (gst.gov.in) between 8th November 2016 and 30th April 2017. The Enrolment process has closed with effect from 1st May 2017. Data of all those who have signed the enrolment form will be migrated to the new GST System.

The enrolment window will reopen for 15 days from 1st June, 2017 to provide another opportunity to the taxpayers who

could not enrol themselves as well as for those who enrolled but did not sign the enrolment form.

Revenue Secretary Dr. Hasmukh Adhia holds detailed review of IT-Preparedness for the roll-out of GST from July 01, 2017

Dr. Hasmukh Adhia held a meeting at New Delhi where the detailed review of IT Preparedness for GST System at the Goods and Services Tax Network (GSTN) office took place. He reviewed GST System preparedness of GSTN and CBEC. He was briefed about the software system being developed for GST, training of tax officials and outreach program being undertaken by Tax Departments across the nation. Out of 62,937 tax officials, 24,668 tax officials have been given hands-on training on the application software on live system while the remaining officials will be trained by 15th June, 2017. The training is being conducted on Registration, Returns and Payment Modules developed by GSTN.

GSTN is also conducting a pilot on GST System Software from 2nd May to 16th May, 2017, where 3200 taxpayers drawn from each State/UT and Centre will be participating. The pilot covers all the three modules and is being run to give the taxpayers first hand opportunity to work on the live system as the creation of return has become an interactive process.

This pilot will also give an opportunity to test all the modules by a large set of users in real life environment so that all possible scenarios get tested. All stakeholders involved in the GST System from taxpayer to bank to RBI to accounting authorities are participating in this exercise which is like a rehearsal for the real rollout. The feedback from the pilot will be used to further improve the GST Software. The modules covered under the pilot are:

UPLOAD OF INVOICE DATA USING OFFLINE TOOL, DEVELOPED BY GSTN

- i. Creation of Supply Return (GSTR-1)
- ii. Viewing auto-generated inward supply (Purchase) Return (GSTR-2A)
- iii. Editing of GSTR-2A by purchaser to create final inward supply return (GSTR-2)
- iv. Viewing and acceptance/rejection of added invoice data by purchaser (GSTR-1A)
- v. Viewing System generated GSTR-3, payment of taxes using net banking and submission of GSTR-3.
- vi. Creation of bank scroll by Banks and RBI,
- vii. Reconciliation of payment by Accounting Authorities with data received from Banks and RBI

APPORTIONMENT OF CREDIT ON INPUTS AND INPUT SERVICES UNDER GST

The entire scheme of taxation under GST is to reduce the cascading effect. At each stage of taxation, input tax credit is allowable to the registered taxable person. It being a destination based consumption tax; the burden of tax shall be borne by the ultimate consumer.

Provisions relating to eligibility to input tax credit are contained in section 16 of CGST Act. Further, section 17 provides for apportionment of credit and blocked credits.

Provisions relating to apportionment of credit are applicable to the cases where goods or services are partly used for business purpose and partly for other purposes. In such cases, credit is available only to the extent they are used for business purposes.

Similarly, wherever the goods or services have been used partly for effecting taxable supplies and partly for exempted supplies, the amount of credit shall be restricted to so much of credit as is attributable to the taxable supplies. For this purpose, taxable supplies would include zero rated supply also. As per section 16 of IGST Act, zero rated supply relates to supply of goods and services for export or supply to a Special Economic Zone developer or a Special Economic zone unit.

The procedure for apportionment of credit are contained in rule 7 of draft Input Tax Credit rules. These provisions are similar to the provisions contained in Rule 6(3) and Rule 6(3A) OF CENVAT Credit Rules, 2004.

Rules provide that input/input services exclusively intended to be used for purpose other than business or for effecting exempt supplies shall not be eligible for credit.

Similarly, the amount of input tax in respect of inputs/ input services/ capital goods on which credit is not allowable (blocked credits) u/s 17(5) are also not eligible for credit. The details of blocked credits are not being discussed in this article.

Out of the remaining credit, credit which is exclusively relatable to taxable supplies or zero related supplies shall be fully eligible for credit.

After allowing the aforesaid credit, the remaining credit shall be distributed on proportionate basis between the exempt supplies and taxable supplies (including zero related supplies).

In case, the remaining credit has also been used for non-business purposes, the rule provides that 5% of the credit should be

excluded towards the said use for non-business purposes.

The aforesaid computation has to be done on the basis of exempt and taxable supplies of the same month. In case the data for exempt or taxable supplies is not available for the same month, the computation shall be done on the basis of exempt/ taxable supplies of the previous tax period.

The aforesaid exclusions are to be computed finally for the financial year before the due date for filing the return for the month of September following the end of the financial year and wherever the amount of credit allowable works out to be lesser than the amount of credit already taken, the difference shall be added to the output tax liability. The registered taxable person shall also be liable for the payment of interest at the appropriate rate from April of the succeeding financial year till the date of payment.

Wherever the amount of credit allowable works out to be more than the amount of credit already taken, the difference amount shall be claimed by the registered taxable person as credit in his return for the month not later than the month of September following the end of financial year to which such credit relates.

As mentioned earlier, the computation procedure in Rule 7 of draft Input Tax Credit rules is almost same as it is contained in Rule 6(3A) of Cenvat Credit Rules, 2004. New rules however provide for disallowance of credit relating to personal purpose or non business purpose also.

Another important feature of these rules is that it does not give any option of reversal at fixed percentage (which is presently 6% of the value of exempted goods and 7% of value of exempted services).

In the actual practice there may be several difficulties in computing the aforesaid amounts and may invite litigation as has happened under Rule 6 of the Cenvat Credit Rules, 2004.

The aforesaid system of apportionment of credit may be clarified by the following example:

"A Pvt. Ltd., is engaged in the manufacture of sugar and molasses. It also has a distillery unit where it is engaged in the manufacture of potable liquor (non-taxable goods) and ethanol (taxable goods). Some of the goods/ services might have been used for non-business purpose/ personal purpose of the proprietor.

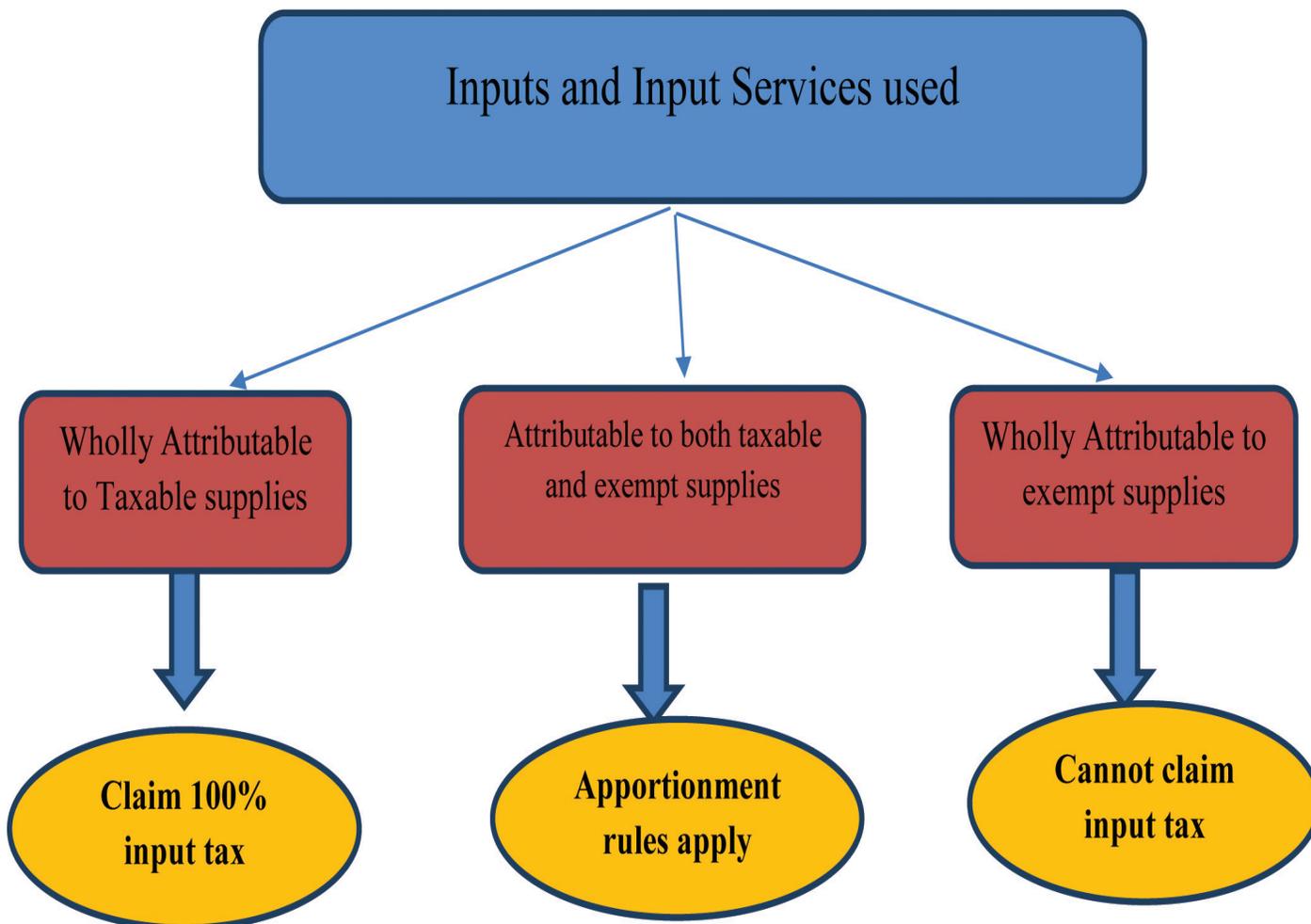
The details of credit on inputs and input services for the month of December 2017 are as under:

Sl. No.	Particulars	Credit on Inputs (Rs. lacs)	Credit on Input Services (Rs. lacs)	Total Credit (Rs. lacs)
(i)	Credit exclusively pertaining to taxable supplies. (including zero rated supply)	1000	100	1100
(ii)	Credit exclusively pertaining to exempted supplies.	300	30	330
(iii)	Blocked Credits.	50	5	55
(iv)	Remaining Credits (pertaining to taxable as well as exempted supplies)	150	15	165
(v)	Total credit	1500	150	1650
(vi)	Gross taxable supplies during the month	20000		
(vii)	Gross exempted supplies during the month	5000		
(viii)	Total	25000		

As per Rule 7 of draft Input Tax Credit Rules, out of aforesaid Rs. 1650 lacs credit, sum of Rs.1223.75 lacs would be allowable to M/s A & Co. for the month of Dec 2017.

Sl. No.	Particulars	Amount	Total
		(Rs.lacs)	(Rs.lacs)
a)	Credit exclusively pertaining to taxable supplies.		1100.00
b)	Common Credit	165	
c)	Less : Credit attributable to exempted Supplies (5000/25000)*165	(33)	
		132	
d)	Less : 5% for non business purposes (165*5%)	(8.25)	123.75
e)	Total credit available		1223.75

The aforesaid computation has to be separately done for CGST, SGST, UTGST & IGST.



ISSUES IN GST ON BANKING SECTOR



Introduction:

Banking sector plays a very crucial role in a macro economic and monetary policies of any country overall framework and the business dynamics of this sector largely differs from other sectors. The regulatory framework for this sector is very strong and leaves no room for any discrepancies. Unlike, other businesses where there are many un-organised ways of style of workings still prevail, same is not the case with this sector which is largely organised in nature. Therefore, any issues for this sector has to be closely looked at and timely resolved so to that larger economic interest of the nation is achieved.

This article lay down various issues that a Banking sector may face due to advent of GST and the suggestions so as to amend the rules, wherever required to be address the negative impact of GST on the Banking sector. Various aspects discussed herewith would apply to all types of banks viz., Nationalised Banks, Private Banks, Public Banks, Co-operative Banks etc. However, the article does not lay discussion on Non-Banking Financial Companies (NBFC's), Micro Finance companies, Credit Cooperative societies etc.

1) State-wise Registration requirement:

Currently, all banks have a centralized registrations under the Service Tax laws for all its branches. Banks having branches in multiple states & Union Territories (UT) will be required to obtain registrations in each such state & Union Territory in the GST regime. Such a requirement will have huge compliance burden on the banks. Further, high coordination and control between the

banks within and outside state for tax matters needs to be placed. Moreover, under GST, accounting, administration, financial records etc, would be required to be maintained for each state-wise separately. This will be highly cumbersome and challenging. Since, it will be difficult for the Banks to cope up with such radical change of taking state-wise registrations, filing multiple returns state-wise, multiple audits and assessments; especially in a scenario where banks have presence in almost every state and union territory of the country and with each state, each city, each locality has a branch of the bank.

Further, even state-wise regional banks do not have capabilities to coordinate and receive information from all the branches within the state and comply with the tax requirements. With so many braches, the entire coordination and assimilation of information at one place for compliance by each state regional bank shall also be a challenge. Therefore, government must provide for some special scheme to the banking sector so that the high administration and compliance burden as placed under the GST is reduced as the business dynamics of banking sector largely differs from that of other industries.

2) Inter-state supplies of goods or services (or both) between two branches of the same bank:

Presently, transactions between branches were not subjected to any taxes. However, this is taxable in the GST regime. Inter-state supplies of goods or services (or both) between two branches of the same bank, located in two States, will attract IGST. Generally,

banks would have lot of common/ shared services being supported from Head Office such as call centre, security software etc. Further, many times one branch would internally provide service to other branches for example: resolving issue of a customer having PAN India accounts, providing local information etc. to other branches etc. If GST is to be charged on such supplies, even though the same are made without consideration, it would cause unnecessary hardship. Although, relief is provided in the valuation rules that in case of a transaction with distinct persons, value disclosed on the invoice shall be deemed to be taken as an open market value, however still valuation issues may creep as this rule does not apply if the receiving branch is not able to avail the full credit due to any reason whatsoever. Since, in a banking sector tracking such transactions would prove to be a cumbersome task and lead to multiple interpretations and disputes, therefore we suggest that by virtue of Rule 6(7) of GST Valuation Rules, banking services be categorised in such class of services where value for any transactions undertaken between the distinct persons is deemed to be considered as Nil.

3) Place of supply in case of banking services:

Under GST Law the place of supply of services for banking and other financial services (BOFS) shall be the location of the recipient of services on therecords of the supplier of services. Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

However, what constitutes the 'records of the supplier' is not defined in the law leading to multiple interpretations as to whether it is to be understood as accounting records or customer records, vendor records and so on. Further, in some cases banks would have multiple addresses of the same customer in its records, this is possible as in case of a banking sector a customer would add multiple accounts within the same customer id and in which case only one address of the customer under whose address that customer id is registered would be reflected as the address on records.

However it is possible that the transaction is undertaken with the account holder within the same customer id but having a branch in different state. In such a situation, if strictly banks pay GST to the state based on the "address on record" then it may end up paying GST in a wrong state. Therefore, banks have to record the address of each account holders within the same customer id and GST needs to be charged on that account holder and accordingly tax also must be paid to that respective state government of the account holder and not the single address captured for the

entire customer id. E.g. it is quite possible that bank issues 'bank guarantee' to be submitted to a local authority by a company. Now, if as per the bank's records, address of the customer [as its HO] is mentioned/ maintained where such address is in the other state, wrong GST may get levied.

It is in this background, it is suggested to bring suitable clarity in the place of supply provisions in this regard and the term "Address on Records" be clearly defined to avoid any disputes as to determination of place of supply.

4) Reversal of Input Tax Credit on Capital Goods:

Presently, as per Rule 6(3B) of CENVAT Credit Rules, 2004, an assessee in banking sector has to reverse 50% of the CENVAT Credit taken on monthly basis on inputs and input services. However, banks can take full credit on Capital goods unless the said capital goods are exclusively used for any exempted service.

However, section 17(4) of the GST law states that banks engaged in supplying services by way of accepting deposits, extending loans or advances have to reverse 50% of the eligible input tax credit on inputs, capital goods and input services.

It is pertinent to note that requirement of reversal of standard 50% credit even on the capital goods portion will have negative impact. Various office furniture, equipments, cash-counting machines, computers, printers, air-conditioners etc. are of high procurement cost for any branch of the bank and if 50% of the credit on the same is to be reversed then it shall have an adverse impact.

Further, since all the capital assets are used for common services, therefore, ITC of only 50% in respect of the capital goods gets allowed. Therefore, we suggest that the provision of reversal of 50% credit for capital goods must be removed. Alternatively, the same may be brought in line with the current service tax law and the credit for capital goods must be available in maximum of 2 years as per the present service tax law.

5) Reversal of Input Tax credit over and above standard 50%:

As per the provisions of the GST Act, option has been given to bankers to reverse 50% of the CENVAT credit instead of reversing based on the input service partly attributable to the taxable supply and exempted supplies. Similar provision is also in place under Service Tax law. However, it is noted that departmental notices are being issued demanding to reverse CENVAT credit of input, input services that are exclusively used for exempted services even though the option for reversal of credit at 50% is opted for.

It is therefore suggested to have a specific clause incorporated stating that once the option to reverse tax at 50% is opted, then

there should not be any conditions imposed over actual correlation of output services/ goods with input services/ goods for the purpose of rejection of credits.

In such scenario, the entire tax paid for the procurement of goods and services, irrespective of whether the same are directly or indirectly used for the taxable or exempted supplies can be easily reversed at a specified reversal percentage without any distortions as to interpretation of the law.

6) Taxability of Interest:

Presently, interest income and discount provided by the banks are covered under negative list, hence not taxable to service tax. Under GST, the term 'service' is defined in a wide manner to cover 'anything other than goods' which may cover interest as



well. Governments across the world do not levy GST on interest. The GST Law in India too should clarify if interest is outside the ambit of GST. If 'interest' is not expected to attract GST, it will have implications on input tax credits claimed by banks. Further, such a move would have larger economic issues. Therefore, we suggest to follow the current scenario where in the service tax law, interest is kept in the negative list, similarly interest can be kept in schedule 3 of the GST law so that it neither amounts to supply of good nor service and therefore no GST would be applicable on the same.

7) Sale of Repossessed Assets:

When a bank re-possesses assets from a defaulter of loan & sales them, VAT is paid by the bank as a 'dealer' under state VAT laws in some States. The litigation continues as to whether, the bank effects the sale of such assets or facilitates/ compels the sale of assets by the defaulting borrower or as the case may be, Bank has acted as an agent of the defaulting borrower to sale/dispose off the asset. Such sales are effected to realise the bad/sticky loans of such banks. In GST Law, if Banks are treated as suppliers of such assets, the overall cost of operations for Banks would go up, as it



is expected that the rate of GST would be higher than the present VAT rate. Therefore, it is expected that the rate of such transactions should not be pegged under the category of standard rate @ 18% and instead the same should be at a lower rate of 5%. Further, banks would take possession and control over under-constructed buildings if there is lapse in payment of instalments, in such a scenario building would be sold before the receipt of completion certificate or first occupancy. A suitable clarity has to be provided whether in this situation GST would be applicable or whether it will not be treated as supply by virtue of clause 5 of schedule 3 and not be taxable under GST since it is sale of immovable property.

8) Value for reversal of Input Tax Credit:

Presently, as per Rule 6(3B) of CENVAT Credit Rules, 2004, an assessee in banking sector has to reverse 50% of the CENVAT Credit taken on monthly basis or follow the procedure for reversal as per Rule 6(3) i.e. reversal on actual basis. However, if reversal is made on actual basis, then it is specifically provided that 'Value' for the purpose of calculation of reversal shall not include the value of service by way of "extending deposits, loans or advances" against consideration in the form of 'interest' or 'discount'.

However, the similar relaxation is not provided in the GST law. Since, major revenues of the banks is from interest, therefore in such a scenario, reversal of credit based on the actual mechanism would become redundant and banks would only opt for 50% reversal option. This could lead to harshness in some genuine cases where reversal of credit based on the actual attributable mechanism would be beneficial. Therefore, it is suggested to provide this option in line with the present provisions in the service tax law. This suggestion may be read in conjunction with para 6 -taxability in respect of 'interest income'.

– Contributed by Pune Study Group

MATCHING CONCEPT OF ITC UNDER GST

Introduction

One of the main motives of introducing GST was seamless flow of credit during the supply chain and hence mitigating cascading effect of taxes. Under GST regime normally credit of input tax on all goods and services, used or intended to be used for business, shall be allowed to the registered taxpayer, which is restricted under current tax regime in many ways and hence results into higher cost of goods and/ or services. However, a registered taxpayer shall be entitled to Input Tax Credit (ITC) if below mentioned conditions are satisfied:

- He is in possession of Tax Invoice/ Dr. Note/Prescribed Tax paying document.
- He has actually received the goods and/ or Services.
- Tax charged in the invoice has actually been paid.
- He has furnished required return under the GST Law.

Before going to the Matching concept firstly we need to understand the GST returns:

1. GSTR-1(Details of Outward Supplies)

Section 37 of CGST Act Read with Return Rule 1 casts an obligation on every registered person to furnish:

- Detail of outward supplies of goods or services or both .
- During a tax period;
- Electronically through the common GST portal of GSTN.
- On or before the 10th day of the month succeeding the said tax period
- In Form GSTR 1.

An Input Service distributor, a non-resident taxable person, a person availing composition scheme as provided u/s 10 or a person liable to deduct tax at source are not required to file return under this section.

Outward supplies details shall include details relating to the followings:

- Taxable outward supplies comprising interstate supplies, intrastate supplies, Zero-rated supplies,
- Debit notes, credit notes and supplementary invoices issued during the said tax period
- Nil rated, exempted and Non GST Outward supplies
- Exports,

- Advances received and Tax Invoices issued for the same
- Supplies made through E-Commerce operator

The details of outward supplies so furnished by the supplier shall be made available electronically to the concerned registered person in Part A of Form GSTR 2A after due date of filling Form GSTR 1.

2. GSTR 2 (Details of Inward Supply)

In terms of Section 38 every registered person shall verify, validate, modify or delete the details of outward supplies by the supplier as communicated to him and may include the details of inward supplies and credit or debit notes that have not been declared by the supplier in GSTR 1 and shall furnish

- Details of inward supplies of goods or services or both
- Made during a tax period
- Electronically through a common portal of GSTN
- On or before the 15th day of the month succeeding the said tax period
- In Form GSTR-2

An Input Service distributor, a non-resident taxable person, a person availing composition scheme as provided u/s 10 or a person who is liable to deduct tax at source are not required to file return under this section.

Inward supplies details GSTR-2 shall include details relating to the followings:

- Inward supply on which tax is payable under reverse charge basis
- Inter-state supplies
- Debit notes, credit notes and supplementary invoices issued during the said tax period.



4. Inward supplies on which IGST is payable under section 3 of Customs i.e. import

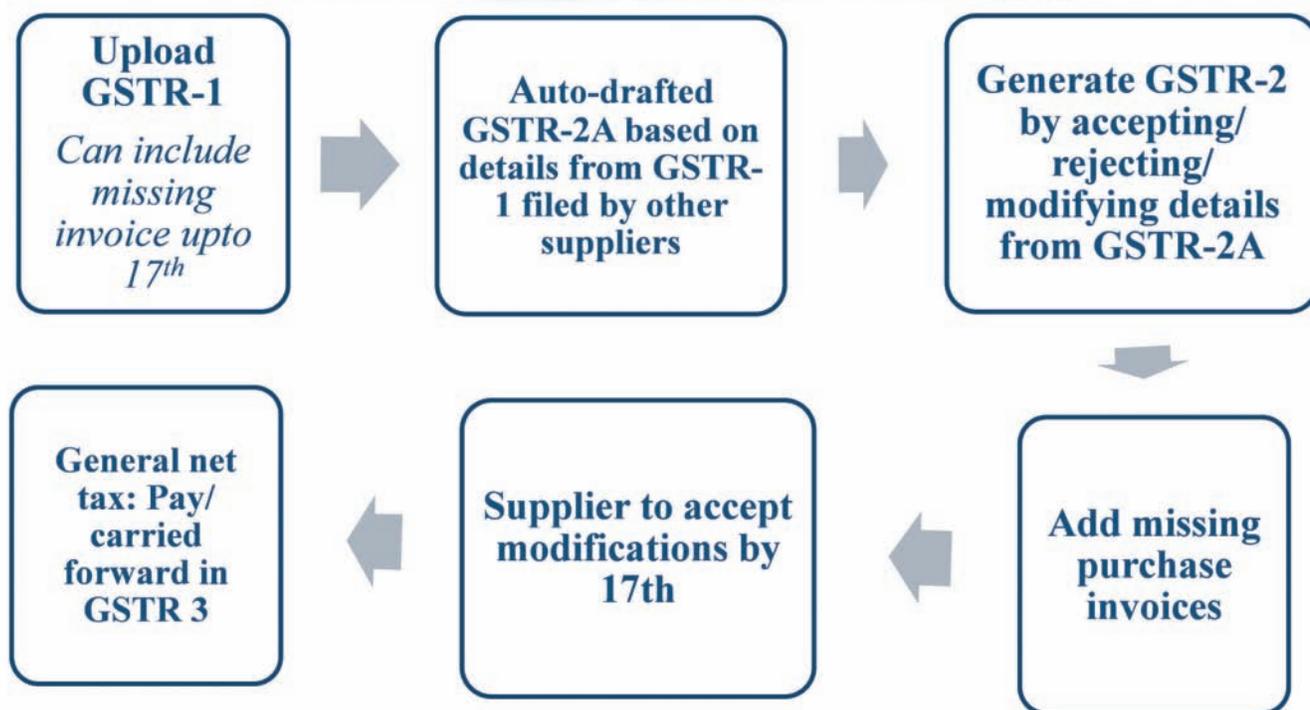
3. GSTR 3 (Monthly GST Returns)

Every registered taxable person, other than input service distributor or a non resident taxable person or a person availing composition scheme or person liable to deduct or collect tax, shall for every calendar month furnish a return in Form GSTR 3 Electronically of inward and outward supply, Input Tax Credit availed, Tax payable,

tax paid and such other particulars, on or before 20th of the succeeding month.

All the claims of ITC as self-assessed shall be provisionally accepted as per section 41 and shall be credited in electronic credit ledger of the registered person. However if the supplier has not made the payment of tax payable or not filed the monthly return, the ITC so claimed on provision basis will be denied later in the hands of the recipient of the goods or services or both.

MATCHING PROCESS



Matching of Input Tax Credit

Once the supplier and recipient has filed outward and inward supplies details as per Form GSTR1 and GSTR 2 respectively and the monthly return on Form GSTR 3, the details of inward supply furnished by the recipient shall be matched with the corresponding details of outward supply furnished by the supplier in his return for the same or earlier tax period.

In the process of such matching, the details of inward supplies which matches with the details of outward supplies shall be finally accepted and shall be accordingly communicated to the recipient.

The mismatch can be of the following nature

- Input tax credit availed by the recipient is more than the tax declared by the supplier
- Input tax credit availed by the recipient but outward supply is not declared by the supplier

- Duplication of claim of Input Tax Credit by the recipient

In case of mismatch in the nature of clause (a) or (b), the discrepancy shall be communicated to both the supplier and recipient with an option to rectify the discrepancy in the return for the month in which the discrepancy is communicated. As far as mismatch on account of duplication of claim of input tax credit is concerned, the discrepancy shall be communicated only to the recipient and the excess amount shall be added to the output tax liability of the recipient of the same month in which discrepancy is communicated.

With regard to mismatch under clause (a) and (b) above, once the communication is made, the supplier or recipient shall accordingly rectify the discrepancy in the return for the month in which the discrepancy is communicated. However if the discrepancy is ultimately not rectified by the supplier or recipient, the tax discrepancy shall be added to the output tax liability as under

- a. If supplier does not rectifies the discrepancy then the excess input tax credit so availed by the recipient shall be added to the output tax liability of the purchasing dealer i.e. recipient in the month succeeding the month in which the discrepancy is communicated along with due interest from the date of availing of credit till the corresponding additions made in his return.
- b. If the supplier later on declares the details of the Invoice and/or debit note in his valid return then the recipient shall be eligible to reduce his output tax liability which was added earlier in his return. Any interest paid earlier shall also be refunded to the purchasing dealer.

Matching of Credit Note

As stated hereinabove, every supplier has to furnish the details of invoices, credit notes or debit notes, etc. in its outward supplies details in Form GSTR 1. A credit note is generally issued for reduction in taxable value or tax charged in tax invoice or for return of goods or for deficient supply. Since the supplier has initially paid the taxes on the basis of tax invoice and recipient has also availed the credit on the basis of such tax invoice and now credit note reduces the output tax liability in the hands of supplier, the same is allowed only if the recipient has also reduces his claim of input tax Credit. Section 43 provides for matching of credit note issued by supplier with simultaneous reduction in claim of input tax credit by the recipient and for duplication of claim of credit note by supplier resulting in reduction in output tax liability.

In the process of such matching, the claim of reduction in output tax liability by the supplier that matches with the corresponding reduction in claim for input tax credit by recipient shall be finally accepted and shall be accordingly communicated to the supplier.

The mismatch can be of the following nature

- d) Reduction in output tax liability by the supplier is more than the corresponding reduction in claim of input tax credit tax by the recipient
- e) Credit note is not declared by the recipient
- f) Duplication of claim for reduction in output tax liability by the supplier

In case of mismatch in the nature of clause (a) or (b), the discrepancy shall be communicated to both the supplier and recipient with an option to rectify the discrepancy in the return for the month in which the discrepancy is communicated. As far as mismatch on account of duplication of claim for reduction in output tax liability is concerned, the discrepancy shall be communicated only to the supplier and the excess amount shall be added to the output tax liability of the supplier of the same month in which discrepancy is communicated.

With regard to mismatch under clause (a) and (b) above, once the communication is made, the supplier or recipient shall accordingly rectify the discrepancy in the return for the month in which the discrepancy is communicated. However if the discrepancy is ultimately not rectified by the supplier or recipient, the tax discrepancy shall be added to the output tax liability as under

- a. If recipient does not rectifies the discrepancy then the same shall be added to the output tax liability of the supplier in the month succeeding the month in which the discrepancy is communicated along with due interest from the date of claim for reduction in output tax liability till the corresponding additions made in his return.
- b. If the recipient later on declares the details of the credit notes in his valid return then the supplier shall be eligible to reduce his output tax liability which was added earlier in his return. Any interest paid earlier shall also be refunded to the purchasing dealer.

Here it would be relevant to note that, no such rectification of invoices/reclaim of input tax credit shall be allowed after due date for filing of return for the month of September of the following year or date of filing of Annual Return, whichever is earlier. For example, if the invoice pertains to Financial year 2016-17, then in that case it should be rectified before filing the return of September 2017 i.e. 20th October 2017 or date of filing of annual return for F.Y. 2016-17 whichever is earlier, It is important to note that in case such period lapses, no such rectification is allowed and input tax credit related to them will be lost.

This mechanism of matching seems to be highly automated and thus all the returns of selling dealer as well as purchasing dealer will be linked with each other, so that any change on one side will be correspondingly reflected on the other side. Therefore, both the seller as well as purchaser is required to be very careful in filing the returns and in uploading sale / purchase details. Even a slight mismatch in the details will lead to unnecessary demands and may also lead to litigation for recovery of tax.

– *Contributed by Surat Study Group*

Corrigendum

Readers Attention is invited to the fact that the contributor for article “Impact of GST on Hotel Industry” published on Page No. 13 of April Second Issue of the GST Newsletter has been printed as “Ernakulam Group” instead of “Indore Group”. The omission is deeply regretted.

ELECTRONIC WAY BILL

Introduction

Waybill is a physical or electronic document that allows movement of goods, which can be obtained either manually or online. The compliance around waybills has led to, restricted movement of goods across states. Waybill compliance has been a nightmare in the pre-GST era. Sale of goods cannot take place without obtaining 'waybills' from VAT authorities.

E-way bill is an electronic way bill for movement of goods, which has to be generated on the GSTN (common portal). 'Movement' of goods of more than Rs 50,000 in value cannot be made by any person without an e-way bill. The tax officials can inspect the same, anytime during the transit to check tax evasion. GSTN will generate e-way bills that will be valid for 1-15 days, depending on distance to be travelled.

Information to be furnished prior to commencement of movement of goods and generation of e-way bill

1) E-Way Bill Generator :

E-way bill shall be generated by the

- * registered person as Consignor or
- * the recipient of supply as Consignee or
- * Transporter.

2) Liability to furnish the Information:

Information to be furnished before the movement of goods, by a registered person who causes such movement if

- * Consignment value exceeds Rs. 50,000 (even if such movement is not a supply)
- * A registered person purchases goods from an unregistered person.

3) 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).

4) 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 INS-01 will be auto populated.

5) Information will flow in GSTR-1:

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

6) Information in Part B of FORM GST INS-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, then

the registered person may generate the e-way bill after furnishing the information in Part B of Form GST INS - 01 or

- * If e-way bill is not generated in the aforesaid manner and the goods are handed over to a transporter. Then, the registered person shall furnish the information to the transporter and he shall generate the e-way bill after furnishing the information in Part B of Form GST INS – 01.

7) Residual:

If required information is not submitted by the consignor, the transporter shall generate the e-way bill on the basis of invoice/ bill of supply or deliver challan.

8) 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.

9) 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.

10) Uniformity:

The e-way bill generated under the CGST rules or GST rules of any other State shall be valid in the State.

11) Easy to manage:

The facility of generation and cancellation of e-way bill may also be made available through SMS.

Transfer of goods from one conveyance to another during transit:

In this case, before such transfer and further movement of goods, transporter shall generate a new e-way bill, specifying the mode of transport.



Transportation of multiple consignments in one conveyance:

The Transporter shall indicate the serial number of e-way bills generated in respect of each consignment and a consolidated e-way bill shall be generated before the movement of goods.

Where the consignor has not generated e-way bill as the value of goods or consignment did not exceed the limit of Rs. 50,000, the transporter shall generate the same and also generate the consolidated e-way bill before the 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.

Cancellation of E-Way bill:

If e-way bill has been generated, but, goods are either not being transported or not being transported as per the details furnished, the e-way bill may be cancelled within 24 hours of its generation. However such e-way bill can-not be cancelled if it has been verified in transit.

Validity Period of E-Way bill:

Distance	Valid from	Valid for
Less than 100 km	Date & time at which e-way bill is generated	1 day
100 km or more but less than 300km	Date & time at which e-way bill is generated	3 days
300 km or more but less than 500km	Date & time at which e-way bill is generated	5 days
500 km or more but less than 1000km	Date & time at which e-way bill is generated	10 days
1000 km or more	Date & time at which e-way bill is generated	15 days

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

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

- 1) 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.

- 2) 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) 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.

Verification of documents and conveyances

- * The Commissioner / officer (authorized by Commissioner) may intercept any conveyance for physical verification or for verification of e-way bill or the EBN for all inter-state an intra-state movement of goods.
- * The Commissioner shall get RFID (Radio Frequency Identification Device) readers installed at places where verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such RFID readers where the e-way bill has been mapped with RFID.

Inspection and verification of goods

- * Tax officials would be empowered to inspect the e-way bill any time during the journey to check for tax evasion.
- * 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 in Part B of FORM GST INS-03.
- * Where the physical verification of goods being transported has been done during transit, no further physical verification shall be carried out unless there is specific information relating to evasion of tax.

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 INS- 04 on the common portal.

List of E-Way Bill Relevant Forms

1.	FORM GST INS-01	Furnish information prior to commencement of movement of goods.
2.	FORM GST INS-02	Furnish information regarding consolidated e-way bill in case of multiple consignments.
3.	FORM GST INS-03	Summary report of every inspection of goods in transit recorded by proper officer.
4.	FORM GST INS-04	Uploading of information regarding detention of vehicle.

– Contributed by Kolkata Study Group

CERTIFICATE COURSE ON GST

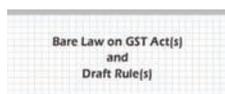
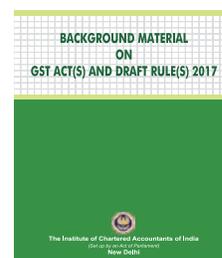
S. No.	Hosting Branch/ Region	START DATE	END DATE
1	Karimnagar Branch of SIRC OF ICAI	18-05-2017	04-06-2017
2	Tirupati Branch of SIRC of ICAI	19-05-2017	28-05-2017
3	Kanpur Branch of CIRC of ICAI	19-05-2017	04-06-2017
4	Ahmedabad Branch of WIRC of ICAI	20-05-2017	18-06-2017
5	Bangalore Branch of SIRC of ICAI	20-05-2017	02-07-2017
6	Varanasi Branch of CIRC of ICAI	20-05-2017	11-06-2017
7	Salem Branch of SIRC of ICAI	26-05-2017	12-06-2017
8	Hyderabad Branch of SIRC of ICAI	27-05-2017	25-06-2017
9	Jorhat Branch of EIRC of ICAI	27-05-2017	25-06-2017
10	Madurai Branch of SIRC of ICAI	27-05-2017	27-06-2017
11	Guwahati Branch of EIRC of ICAI	29-05-2017	10-06-2017

PUBLICATION

The Indirect Taxes Committee of ICAI keeps the members updated with the changes through its publications. The following publication have been published by the Committee:

Background Material on GST Act(s) and Draft Rule(s) 2017

“Background Material on GST Act(s) and Draft Rule(s) 2017” which is a comprehensive material containing a clause by clause analysis of the four Acts viz CGST Act, IGST Act, UTGST Act and GST (Compensation to the States) Act along with FAQ’s, MCQ’s, Flowcharts and Illustrations etc. to make the analysis and understanding of the law easier.



Bare Law on GST Act(s) and Draft Rule(s)

Bare Law on GST Act(s) and Draft Rule(s) which is a compilation of four key legislations viz. The Central GST Act, 2017, The Integrated GST Act, 2017, The GST (Compensation to States) Act, 2017, and The Union Territory GST Act, 2017 and 11 draft Rules i.e. Composition, Input Tax Credit, Determination of Value of Supply, Transitional Provisions, Registration, Tax Invoice, Credit and Debit Notes, Payment of Tax, Refund, Return, Assessment and Audit Rules and Electronic Way Bill Rules.

Ordering Information

The Publication can be purchased directly from the sales counter at the ICAI’s Regional Offices / Branches or at the Head Office. Member may also download from Indirect Taxes Committee Website: <http://idtc.icai.org/publications.php> . To order by post, requisition may be sent to the Postal Sales Department of the ICAI at postalsales@icai.in or can be order online at <https://icaionlinestore.org/indirect-taxes-committee>



TEST YOUR KNOWLEDGE

- Q 1.** Which of the following is an inter-State supply?
- Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi
 - Supplier of goods located in Delhi and place of supply of goods in Jaipur
 - Supplier of goods located in Delhi and place of supply of goods SEZ located in Chandigarh
 - All the above
- Q 2.** Unless and until notified, IGST shall not be levied on the inter-State supply of which of the following:
- Industrial alcohol
 - Works contract
 - Petroleum
 - None of the above
- Q 3.** Supply of goods in the course of import into territory of India is
- Intrastate supply
 - Main supply
 - Export
 - Inter-state trade or commerce
- Q 4.** What is location of supply in case of importation of goods?
- Customs port where the goods are cleared
 - Location of the importer
 - Place where the goods are delivered after clearance from customs port
 - Owner of the goods
- Q5.** Zero rated supply includes
- export of goods and services.
 - Supply of goods and services to a SEZ developer or SEZ Unit
 - Supply of goods and services by a SEZ developer or SEZ Unit
 - Both (a) and (b)
- Q6.** Out of the IGST paid to the Central Government in respect of import of goods or services, if the registered taxable person does not avail the said credit within the specified period and so remains in the IGST account, what is the treatment?
- Refund it back to the taxable person.
 - Can be claimed after the expiry of the specified period.
 - Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the state where such supply takes place.
 - None of the above.
- Q7.** What would the TDS and TCS rates be under IGST?
- TDS and TCS provisions not applicable to IGST since no such provisions have been incorporated under IGST Act
 - At the rates mentioned in CGST Act
 - At the rates equal to CGST Act + SGST Act
 - At double the rate mentioned in CGST Act
- 8.** Real estate agent in Delhi charges brokerage fee to Company A located in Chandigarh for assistance in getting a commercial property in Kolkata. Which is the place of supply in this case?
- Delhi
 - Chandigarh
 - Kolkata
- Q9.** Mr. Y residing in Ahmedabad appoints an architect in Delhi to provide Indian traditional home design for his proposed construction at Los Angeles, the place of supply of service is
- Los Angeles
 - Ahmedabad
 - Delhi

Answers

1. (d) all the above **2. (c)** Petroleum **3. (d)** inter-State trade or commerce **4. (b)** location of importer **5. (d)** Both (a) and (b) **6. (c)** Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the state where such supply takes place **7. (d)** At double the rate mentioned in CGST Act **8. (c)** Kolkata **9. (a)** Los Angeles

FORTH COMING EVENTS UNDER THE AEGIS OF INDIRECT TAXES COMMITTEE

16th & 17th May, 2017

Place : Bharuch • CPE Hours : 12 Hours

Title of the Seminar: Two Days Workshop on GST
Contact Details : Bharuch Branch of WIRC of ICAI
Phone: 02642-246224
Email: bharuch@icai.org

Title of the Seminar: Two Days Workshop on GST
Contact Details : Varanasi Branch of CIRC of ICAI
Phone: 0542-2277191,
Email: varanasi@icai.in

17th & 18th May, 2017

Place : Varanasi • CPE Hours : 12 Hours

19th, 20th and 21st May, 2017

Place : Visakhapatnam • CPE Hours : 18 Hours

Title of the Seminar: Three Days Programme on GST
Contact Details : Visakhapatnam Branch of SIRC of ICAI
Phone: 891-2793196
Email: visakhapatnam@icai.org

Title of the Seminar: GST Conclave- II
Contact Details : Kolkata Branch of EIRC of ICAI
Phone: 033-30211104, 30211108
Email: eircevents@icai.in

20th May, 2017

Place : Kolkata • CPE Hours : 6 Hours

20th and 21st May, 2017

Place : Bhilai • CPE Hours : 12 Hours

Title of the Seminar: National Conference on GST
Contact Details : Bhilai Branch of CIRC of ICAI
Phone: 0788-4015125, 2260613
Email: bhilai@icai.org

Title of the Seminar: Two Days Workshop on GST
Contact Details : Solapur Branch of WIRC of ICAI
Phone: 0217-2317351
Email: solapur@icai.org

20th and 21st May, 2017

Place : Solapur • CPE Hours : 12 Hours

26th, 27th and 28th May, 2017

Place : Bilaspur • CPE Hours : 18 Hours

Title of the Seminar: Three Days Workshop on GST
Contact Details : Bilaspur Branch of CIRC of ICAI
Phone: 07752428611
Email: bilaspur@icai.org

Title of the Seminar: Workshop on GST
Contact Details : Agra Branch of CIRC of ICAI
Phone: 0562-4040598
Email: icaiagra@gmail.com

27th May, 2017

Place : Agra • CPE Hours : 6 Hours

2nd & 3rd June, 2017

Place : Gandhidam • CPE Hours : 12 Hours

Title of the Seminar: Workshop on GST
Contact Details : Gandhidam Branch of WIRC of ICAI
Phone: 02836-230305
Email: gandhidam@icai.org

Title of the Seminar: Two Days Workshop on GST
Contact Details : Hubli Branch of SIRC of ICAI
Phone: 0836-2288337, 2283081
Email: icaihubli@gmail.com

9th & 10th June, 2017

Place : Hubli • CPE Hours : 12 Hours

FAQs ON TIME OF SUPPLY

Q 1. What will be the time of supply where tax is liable to be paid under reverse charge mechanism?

Ans. In case of tax liable to be paid under reverse charge mechanism, the time of supply shall be the earliest of the following:

- Date of receipt of goods by the recipient; or
- Date on which the payment is entered in the books of accounts of the recipient; or
- Date on which payment is debited in the bank account of the recipient; or
- Date immediately following thirty days from the date of issue of invoice by the supplier.

Where the time of supply cannot be ascertained as above, the date of entry in the books of accounts of the recipient shall be the time of supply of goods.

To illustrate, Mr. A being registered taxable person procures goods from Mr. B who is unregistered. The chronology of events are as follows:

Date of receipt of goods by Mr. A	July 15, 2017	Time of supply shall be July 15, 2017
Date on which the payment is entered in the books of accounts of Mr. A	July 20, 2017	
Date on which payment is debited in the bank account of Mr. A	July 22, 2017	

In the event, the above details are not available and the date of entry relating to purchase of goods in the books of Mr. A is July 30, 2017, the time of supply of goods will be July 30, 2017.

Q 2. What will be the time of supply in case of supply of vouchers?

Ans. In terms of Section 12(4) of the CGST Act, 2017, time of supply of vouchers shall be the earliest of the following:

- date of issue of voucher, if the supply is identifiable at that point; or
- date of redemption of voucher, in all other cases.

Eg: Mr. A buys vouchers from Lifestyle of worth Rs. 1,000/- for a shirt dated December 01, 2017. Mr. A gifts such vouchers to Mr. B who redeems such vouchers with Amazon India on January 31, 2018. – Time of supply is the date of issue of vouchers viz., December 01, 2017.

Q 3. What are the conditions to avail the input tax credit on rent a cab, life Insurance, Health Insurance?

Ans. Tax paid w.r.t rent a cab services, life/ health insurance services will be eligible as input tax credit subject to the following conditions:

- If the Government notifies that such services are obligatory for an employer to provide to its employees under any law for the time being in force, or
- Such services are used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply.

Q 4. What is the difference between the availment of credit in case of Compulsory Registration and Voluntary Registration?

Ans. In case of compulsory registration, the input tax credit can be availed on the stocks held immediately preceding the date from which he becomes liable to pay tax (date of grant of registration may be later) and in case of voluntary registration, the input tax credit can be availed on the stocks held immediately preceding the date of grant of registration.

Q 5. Whether the principal is entitled to take input tax credit even when the principal has not received the goods and directly sent to job worker by the vendor?

Ans. Yes. Section 19(2) and Section 19 (4) (5) allows the principal to take input tax credit of goods not received by him, if the goods are sent directly to the job workers premises by the vendor.

Q6. What is the rate of GST to be charged on advances received before the change in rate of tax if the supply is completed after the change is rate of tax?

Ans. If the invoices is also raised before the change in rate of tax then the old rate will be applicable even though the supply is complete after the change in rate of tax. Else, the new rate will be applicable.

Q7. In case of Construction Contracts, builders remit taxes on receipt of payment or completion of slabs as provided in the contract. What will the impact due to change in the tax rates?

Ans. For payments received before the change in rate of tax, if invoices are also raised before the change in rate of tax, old rate will be applicable. Else the new rate will be applicable.

For slab completion before the change in rate of tax, if invoices are also raised before the change in rate of tax, old rate will be applicable. Else the new rate will be applicable.



FAQs ON VALUE OF TAXABLE SUPPLY

Q 1. Is there any specific valuation mechanism provided for composite supplies and mixed supplies?

Ans. No. Section 15 and the rules prescribed under this Section are common for supply of goods and supply of services. The provisions of valuation and the rules would apply to composite supplies and mixed supplies equally.

Q 2. Will the valuation rules provided in Section 15 apply to IGST payable on import of goods?

Ans. No. Customs Law will be applicable for valuation of imported goods.

Q 3. Is reference to Valuation Rules required in all cases?

Ans. No. Reference to Valuation Rules is required only when the supply is between related persons (including different registrations of the same PAN and principal-agent supplies), or where the consideration payable is not wholly in money. However, in specific cases where the categories of goods and services are notified in this regard (such as money-changing), the valuation rules must be referred to, irrespective of the fact that the supplier and recipient are unrelated and price is the sole consideration.

Q 4. If related persons transact at arm's length price, can the valuation still be questioned?

Ans. The law mandates a reference to valuation rules where the supply is between related persons. However, since the supply is at "arm's length price", the fact that the price assigned to the transaction is an 'open market value' should be established.

Q 5. Will discounts given to customers be allowed as deduction from transaction value?

Ans. Yes, the following two types of discounts would be excluded from transaction value:

- Discount at the time of Sale – Allowed as a deduction provided if the discount is recorded on the face of invoice.

Post-supply Discount – If such discount is based on the arrangement entered into before or at the time of supply, AND where the same can be linked to relevant invoices, then the same is allowed as a discount on the condition that the recipient reverses the tax credit related to such discount availed earlier.

Q 6. Will GST be applicable on any interest charged for payment after the credit period?

Ans. Interest, Penalty or Late fee charged from the customer would also be liable to GST. However, the law provides that the GST liability on such values can be paid only on receiving such additional amounts.

Q 7. Are subsidies received from Private Enterprises on procurement of eco-friendly capital goods required to be included in the transaction value?

Ans. Subsidies directly linked to the price of the supply are to be included in the transaction value, where such subsidies are not provided by the Central/ State Governments. Where it can be established that the price of the supply is not directly linked to the subsidy given on capital goods, the same is not required to be included.

Q 8. Will the Customs duty paid by Customs House Agent on behalf of the client also be required to be included in the transaction value?

Ans. Presently, under the Service tax law, the aforementioned expenses are treated as reimbursements as 'pure agent' and are hence, not liable to service tax. Similar treatment exists in case of pure agents under the GST law as well, where the expenditure/ costs are incurred by the supplier acting as a pure agent of the recipient, on fulfilment of prescribed conditions.

FAQs ON JOB WORK

Q 1. Whether goods sent by a taxable person to a Job Worker will be treated as supply and liable to GST? If yes, why?

Ans. It shall be regarded as supply because supply includes all forms of supply such as sale, transfer, etc. and also includes cases where the conditions as specified in section 143 of the CGST Act, 2017 are not met. Accordingly, the supply by principal to job worker and vice-versa will be treated as supply and liable to GST.

However, it shall not be regarded as supply if the conditions as specified in section 143 of CGST Act, 2017 are satisfied. As the deeming provision contained in section 143(3) to treat the goods sent by the principal to job worker as supply is applicable only when the condition of section 143 with respect to receiving back the goods within the stipulated period is not satisfied.

Q 2. Whether the Job worker is liable to pay GST under reverse charge mechanism on the goods or services if notified?

Ans. Yes. In terms of section 9(3) of CGST Act, 2017 on the specified categories of supply of goods and/or services, the recipient of such goods and/or services is liable to pay GST under reverse charge basis. Further, Section 143 of CGST Act, 2017 does not provide any exemption to job worker in this regard.

Q 3. Is a job-worker required to take registration?

Ans. Yes, as a Job-worker would be a supplier of services, he would be required to obtain registration if his aggregate turnover exceeds the prescribed threshold.

Q 4. Whether the goods of principal directly supplied from the job-worker's premises will be included in the aggregate turnover of the Job Worker?

Ans. No. Since the responsibility for accountability of inputs and/or capital goods lies with principal, it will be included in the aggregate turnover of the principal as enumerated in section 143 of CGST Act, 2017.

Q 5. What are the provisions relating to availment of input tax credit by the principal in respect of inputs sent to a Job Worker?

Ans. In the CGST Act, 2017, aspects relating to availment of input tax credit in respect of inputs sent for job-work have been specifically dealt with in Section 19, which provides that the principal shall be entitled to avail credit of inputs sent to a job-worker if the said inputs, after completion of job-work or otherwise are received back within a period of one

year from the date of being sent to a job worker. In case the inputs are sent directly to the job-worker, the date shall be counted from the date of receipt of inputs by job-worker. Further, if such inputs are not received back within a period of one year then it shall be deemed that such inputs have been supplied by the principal to the job worker on the day when the said inputs were sent out.

Q 6. Whether the principal is required to raise a taxable invoice in case of goods sent to job worker is deemed as supply in terms of section 143(3)/143(4)?

Ans. Yes the principal is required to raise a taxable invoice on the day immediately after the expiry of the one year or three years period for inputs or capital goods as the case may be.

Q 7. Whether ITC can be taken in respect of moulds & dies, jigs & fixtures, or tools sent to a Job Worker?

Ans. Yes. Further, there is no time limit prescribed to receive back such goods from job worker, as Section 143(4) specifically excludes moulds & dies, jigs & fixtures, or tools.

Q 8. Should job worker and principal be located in same State or Union territory?

Ans. No, this is not necessary as provisions relating to job work have been adopted in the IGST Act as well as in UTGST Act and therefore job-worker and principal can be located either in same State or in same Union Territory or in different States or Union Territories.

Q 9. What are the implications of GST on the principal manufacturer in respect of goods sent on job work before the appointed date and received within 6 months from the appointed date?

Ans. In case the goods are returned within 6 months from the appointed date, no tax shall be payable by the original supplier. In case the goods are returned after 6 months from the appointed date, the input tax credit claimed by the original supplier shall be recovered in terms of clause (a) of sub-section (8) of section 142. In either case, both the principal manufacturer and job worker shall declare the details of goods held in stock by the job worker as on the appointed date in the prescribed form.

Q 10. Who is liable to pay tax when the processed inputs are not returned within the time limit specified?

Ans. When the processed inputs are not returned within specified time limit, the principal manufacturer is liable to reverse the input tax credit already claimed, which shall be reversed under the GST law.

ICAI'S CONTRIBUTION FOR SMOOTH IMPLEMENTATION OF GST AS PARTNER IN NATION BUILDING

1. **Certificate Course on GST:** The Committee has recently launched a Certificate Course on Goods and Services Tax (GST) at more than 20 locations all over India. The objective of the course is to facilitate members in industry as well as in practice to providespecialized and updated knowledge of GST in a systematic manner to enable them to take up various professional opportunities offered by this area.
2. **New Publication on GST:** The Institute has recently developed a publication "BGM on GST Act(s) and Draft Rule(s), 2017" which is a comprehensive material containing a clause by clause analysis of the four Acts viz CGST Act, IGST Act, UTGST Act and GST (Compensation to the States) Act along with FAQ's, MCQ's, Flowcharts and Illustrations etc. to make the analysis and understanding of the law easier. In addition to this, following publication on GST were earlier published:
 - (a) Bare Law on GST Act(s) and rule(s)
 - (b) Simplified GST Guide for Manufacturer
 - (c) Study Paper on Taxation of E-Commerce under GST
 - (d) Study Paper on Unjust Enrichment
 These publications can be downloaded at <http://idtc.icai.org/publications.php>
3. **Suggestions on Draft GST Rules:** The government recently released 14 draft GST rules including 5 revised draft rules on Invoice, Payment, Refund, Registration and Return in the public domain, for which suggestions/representations were invited by the government. ICAI's suggestions on the same were submitted to government on 5th May, 2017.
4. **Interactive Programme on GST for trade associations:** The committee is proactively involved in co-ordinating with the trade associations for organising open house Interactive Programme on GST. In addition to earlier organised 11 programme, 3 more programmes have been organised by the committee as part of its initiatives for partner in nation building. Further, more than 10 interactive programme on GST have been scheduled.
5. **Training Programme on GST for Service tax Commissionerate:** The Committee is organising training programmes on Goods and Services Tax for the officials of Delhi Service Tax Commissionerate.
6. **Outreach Programme on GST in Association with Service Tax Commissionerate:** The Committee has organised another outreach programmes on GST as knowledge partner with the Ahmedabad Commissionerate in addition to the earlier organised 3 programmes in association with Kolkata and Delhi.
7. **A Study Report to enable smooth Transition from Pre-GST to Post-GST Regime:** With a view to facilitate the Government in smooth transition from Pre-GST to Post-GST Regime, the report prepared and submitted by ICAI and it can be downloaded from <http://idtc.icai.org/budget-memorandum.html>
8. **A Study Report on Impact of GST on Jammu & Kashmir Taxation System:** With a view to facilitate the Government of Jammu & Kashmir in understanding the impact of GST on Jammu & Kashmir Taxation System, the ICAI submitted a Study Report to the Government of Jammu & Kashmir. The reports submitted by ICAI can be downloaded from <http://idtc.icai.org/publications.php>
9. **Impact of GST Regime on Finances & Economy in Delhi:** With a view to facilitate the Government of Delhi in understanding the impact of GST on Delhi Taxation System, the Indirect Taxes Committee has submitted a Study Report to the Delhi Government. The report entails the impact of GST implementation on Delhi economy, provides a comparative report on revenue under the present and GST regime etc.
10. **Nomination at the Advisory Committee constituted by Goods and Services Tax Network (GSTN):** Considering the expertise of members of ICAI, Goods and Services Tax Network requested ICAI to nominate its member at the Advisory Committee constituted by Goods and Services Tax Network. Accordingly, ICAI has nominated members at the said advisory Committee.
11. **Support extended to Goods and Services Tax Network (GSTN):** Based on the request from GSTN, following supports have been provided:
 - (i) Sharing of data of ICAI's members for online validation by GSTN.
 - (ii) Nominating members for providing feedback on the software module of GST developed by GSTN.
 - (iii) List of IT Firm provided to GSTN for providing training so that IT Firm may make necessary changes compatible with GST.
12. **Standardised National PPT on GST:** The Committee has developed Standardised National PPT on GST with a view to provide guidance to the faculty members and bring uniformity in the session of GST in the programme and session organised by the ICAI. It is hosted on website of the Committee.
13. **Formation of Study Group for helping State Government in smooth implementation of GST:** The Institute has already formed twenty (20) State level Study Group for extending its support to the State Government in smooth implementation of GST.
14. **Identification and Training of new speakers on GST:** 400 new speakers have been identified and trained on GST Law making the expert pool of over 500 faculties across India.
15. **Workshops, Seminars and Conferences:** More than 100 workshops, seminars and conferences on GST have been organised across the country.



Seminar on GST at Faridabad



Workshop on GST at Trivandrum



Workshop on GST at Belgaum



Seminar on GST at Jodhpur



Residential Refresher Course at Madhurai



Certificate Course on GST at Dibrugarh



National Conference on GST at Bellary



Seminar on GST at Panipat



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.

Main features:

- * Regular Indirect Taxes Updates / GST Updates
- * Knowledge Bank of Indirect Taxes/ GST – Articles, Legal Updates etc.
- * Publications on Excise, Service Tax, VAT, GST etc.- (Available for free download and online ordering)
- * Recordings of Live Webcasts / E-lectures on GST
- * E-learning on Service Tax, Excise, Customs, CST
- * Upcoming events
- * Details of Certificate Courses, Programme, Seminars etc. on GST/ Indirect Taxes
- * Links of related important website
- * Connect with Indirect Taxes as a faculty / author of the publication etc.
- * GST tab newly created on website to provide consolidated GST information.

Your suggestions on the website are also welcome at idtc@icai.in

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](mailto:idtc@icai.in)
for help please visit: <http://help.icai.org/>