

GOODS & SERVICES TAX / IDT UPDATE – 73

GST Council decision relating to changes in law and procedure

In the 35th GST Council Meeting held on 22nd June, 2019, The GST Council has recommended the following changes related to law and procedure:

Changes related to GST Return filing

In order to give ample opportunity to taxpayers as well as the system to adapt, the new return filing system to be introduced in a phased manner, as described below:

- i) Between July, 2019 to September, 2019, the new return system (**FORM GST ANX-1&FORM GST ANX-2** only) to be available for trial for taxpayers. Taxpayers to continue to file **FORM GSTR-1&FORM GSTR-3B** as at present;
- ii) From October, 2019 onwards, **FORM GST ANX-1** to be made compulsory. Large taxpayers (having aggregate turnover of more than Rs. 5 crores in previous year) to file **FORM GST ANX-1** on monthly basis whereas small taxpayers to file first **FORM GST ANX-1** for the quarter October, 2019 to December, 2019 in January, 2020;
- iii) For October and November, 2019, large taxpayers to continue to file **FORM GSTR-3B** on monthly basis and will file first **FORM GST RET-01** for December, 2019 in January, 2020. It may be noted that invoices etc. can be uploaded in **FORM GST ANX-1** on a continuous basis both by large and small taxpayers from October, 2019 onwards. **FORM GST ANX-2** may be viewed simultaneously during this period but no action shall be allowed on such **FORM GST ANX-2**;
- iv) From October, 2019, small taxpayers to stop filing **FORM GSTR-3B** and to start filing **FORM GST PMT-08**. They will file their first **FORM GST-RET-01** for the quarter October, 2019 to December, 2019 in January, 2020;
- v) From January, 2020 onwards, **FORM GSTR-3B** to be completely phased out

Extension in Due Dates

On account of difficulties being faced by taxpayers in furnishing the annual returns in **FORM GSTR-9, FORM GSTR-9A** and reconciliation statement in **FORM GSTR-9C**, the due date for furnishing these returns/reconciliation statements to be extended till 31.08.2019

Last date for filing of intimation, in **FORM GST CMP-02**, for availing the option of payment of tax under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, to be extended from 30.04.2019 to 31.07.2019

E-way Bill

Rule 138E of the CGST rules, pertaining to blocking of e-way bills on non-filing of returns for two consecutive tax periods, to be brought into effect from 21.08.2019, instead of the

earlier notified date of 21.06.2019

GST Tribunal

The Council took a decision regarding location of the State and the Area Benches for the Goods and Services Tax Appellate Tribunal (GSTAT) for various States and Union Territories with legislature. It has been decided to have a common State Bench for the States of Sikkim, Nagaland, Manipur and Arunachal Pradesh.

National Anti-Profiteering Authority

The tenure of National Anti-Profiteering Authority has been extended by 2 years.

GST Council decisions on rate changes on supply of good and services

The Council has recommended following GST rate related changes on supply of goods and services.

Electric Vehicles

On issues relating to GST concessions on electric vehicle, charger and hiring of electric vehicle, the Council recommended that the issue be examined in detail by the Fitment Committee and brought before the Council in the next meeting.

Solar Power Generating Systems and Wind Turbines

In terms of order of the Hon'ble High Court of Delhi, GST Council directed that the issue related to valuation of goods and services in a solar power generating system and wind turbine be placed before next Fitment Committee. The recommendations of the Fitment Committee would be placed before the next GST Council meeting.

Lottery

Group of Ministers (GoM) on Lottery submitted report to the Council. After deliberations on the various issues on rate of lottery, the Council recommended that certain issues relating to taxation (rates and destination principle) would require legal opinion of Learned Attorney General.

[[PIB Update](#)]

Extension of due date for furnishing the declaration in Form GST ITC-04

The Central Government vide [Notification No. 26/2019 – CT dated 28th June, 2019](#); [Notification No. 27/2019 – CT dated 28th June, 2019](#); [Notification No. 28/2019 – CT dated 28th June, 2019](#) ; [Notification No. 29/2019 – CT dated 28th June, 2019](#); [Notification No. 32/2019- Central tax dated 28th June, 2019](#) has provided/extended the due dates of the following Forms.

S no.	Form	For the period	Due date
1.	FORM GST ITC-04 (Form for furnishing details in respect of goods dispatched to a job worker or received from a job worker)	July, 2017 to June, 2019	31 st day of August, 2019.
2.	FORM GSTR-3B (Form to furnish monthly summary of data)	July, 2019; August, 2019 and September, 2019	20th day of the month succeeding such month
3.	FORM GSTR-1 (Form for furnishing the details of outward supply of goods or services or both.)	July –September, 2019 (For registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year)	31 st October, 2019
		For each of the months from July, 2019 to September, 2019 (For registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year)	11 th day of the month succeeding such month.
4.	FORM GSTR-7 (Form for furnishing the return by a registered person required to deduct tax at source under the provisions of section 51)	For the months of October, 2018 to July, 2019	31st day of August, 2019

[Notification No. 26/2019 – CT dated 28th June, 2019; Notification No. 27/2019 – CT dated 28th June, 2019; Notification No. 28/2019 – CT dated 28th June, 2019 ; Notification No. 29/2019 – CT dated 28th June, 2019; Notification No. 32/2019- Central tax dated 28th June, 2019]

Exemption from furnishing of Annual Return / Reconciliation Statement for suppliers of OIDAR services

The Central Government vide Notification No. 30/2019- Central tax dated 28th June, 2019 prescribed the special procedure in respect of persons supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person which is as follows:-

- a. He shall not be required to furnish an annual return in FORM GSTR-9 under section 44(1) of the CGST Act read with sub-rule 80(1).
- b. He shall not be required to furnish reconciliation statement in FORM GSTR-9C under section 44(2) of the CGST Act read with sub-rule 80(3).

[Notification No. 30/2019- Central tax dated 28th June, 2019]

Amendment in Central Goods and Services Tax Rules,2017

The Central Government vide N No. 31/2019- CT dated 28th June, 2019 has amended Central Goods and Services Tax Rules, 2017. Amendments made are explained below:

Rule	Revised Provision
Rule 10A: (Furnishing of Bank Account Details)	<p>Insertion of Explanation:- After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than 45 days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.</p> <p>i.e Now, bank account details can be furnished even after obtaining the registration (Rule 10A)</p>
Insertion in Rule 21: (Registration to be cancelled in certain	<p>Insertion of clause (d): The registration granted to a person is liable to be cancelled, if the said person,-</p> <p>(d) Violates the provision of rule 10A.</p>

cases)	
Insertion of Rule 32A: (Value of supply in cases where Kerala Flood Cess is applicable)	The value of supply of goods or services or both on which Kerala Flood Cess is levied under clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of section 15 of the Act, but shall not include the said cess. (Amendment effective w.e.f 1 st July,2019)
Insertion of proviso to Rule 46	Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.
Insertion of proviso to Rule 49	Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.
Substitution in Rule 66 : (Form and manner of submission of return by a person required to deduct tax at source)	In order to align with the GST portal, substitution is made to provide that the details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the deductees on the common portal after filing of FORM GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation. <i>Earlier such information was made available in Part C of FORM GSTR-2A and FORM-GSTR-4A after the due date of filing.</i>
Substitution in Rule 67 : (Form and manner of submission of statement of supplies through an ecommerce operator)	In order to align with the GST portal, substitution is made to provide that the details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers on the common portal after the due date of filing of FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation. <i>Earlier such information was made available in Part C of FORM GSTR-2A after the due date of filing.</i>
Rule 87: (Electronic Cash Ledger)	Transfer of money between different cash ledger's (e.g. IGST to CGST, etc.) will be permitted from the date notified.
Insertion in Rule 92:(Order sanctioning refund)	W.e.f. date to be notified later, disbursement of refunds will be made on consolidated payment advice.
Insertion of new rule	W.e.f. 1 ST July,2019, refund procedure has been provided

<p>95A: (Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist.)</p>	<p>for the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist.</p> <p>According to the procedure, application for such refund can be filed in Form GST RFD -10B on monthly or quarterly basis through the common portal</p>
<p>Insertion in Rule 128, 132 & 133</p>	<p>Procedural changes in Anti-profiteering proceedings</p>
<p>Insertion in Rule 138: (Information to be furnished prior to commencement of movement of goods and generation of e-way bill.)</p>	<ul style="list-style-type: none"> • Extended validity for E-way bill for multimodal shipment in which at least one leg involves transport by ship. • Validity of the e-way bill can be extended within eight hours from the time of its expiry (Rule 138). <p>Restriction on generation of E-way bill on failure to file returns for two consecutive periods extended to persons paying tax under composition as per NN 02/2019 (service providers) (Rule 138 e)</p>
<p>Changes in Form</p>	<p>Following forms have been notified/amended:</p> <ul style="list-style-type: none"> • GSTR - 4 (to also cover service providers), • CMP - 08 (to discharge tax on monthly basis for quarterly filers • GSTR - 9 (Part - V to carry figures reported in 18-19 related to 17-18), • PMT - 09 (for transfer within cash ledger), • RFD - 10B (refund by duty free shops), • DRC - 03 (cause of payment to be stated).

[*\[N No. 31/2019- CT dated 28th June, 2019\]*](#)

Refund of Tax on inward supply of goods

The Central Government vide [*N No. 11/2019- CT dated 29th June, 2019*](#) has specified retail outlets (established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to an outgoing international tourist) as class of persons who shall be entitled to claim refund of applicable central tax paid on

inward supply of such goods.

[\[N No. 11/2019- CT dated 29th June, 2019\]](#)

Clarification regarding applicability of GST on additional / penal interest

The Central Government vide [Circular no.102/21/2019-GST dated 28th June, 2019](#) has clarified regarding applicability of GST on additional /penal interest on the overdue loan. Clarification provided is as follows:

S no.	Case	Treatment
1.	If such additional /penal interest is charged by the supplier of goods in respect of which such delayed payment is received	Additional/penal interest on delayed payment of EMI would be included in the value
2.	If such additional /penal interest is charged by a third party providing the finance.	Additional/penal interest on delayed payment of EMI would be exempt

[\[Circular no. 20/16/04/2018 – GST dated 28th June, 2018\]](#)

Clarification regarding determination of place of supply in certain cases

The Central Government vide [Circular no. 103/22/2019-GST – GST dated 28th June, 2019](#) has clarified certain issues in respect of determination of place of supply of following services:

S. No	Service	Clarification
1.	Various services being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside	Such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be,

	the port, unloading of wagons etc.	depending upon the terms of the contract between the supplier and recipient of such services.
2.	Services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India	In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act.

[\[Circular no. 103/22/2019-GST – GST dated 28th June, 2019\]](#)

Clarification regarding application for Refund in Form GST RFD-01A

The Central Government vide [Circular No. 104/23/2019-GST dated 28th June, 2019](#) has clarified that since the reassignment of refund applications to the correct jurisdictional tax authority is not yet available on the common portal, the processing of the refund claim should not be held up and it should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal. After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably on the common portal so that all subsequent refund applications are transferred to the correct jurisdictional tax authority.

[\[Circular No. 104/23/2019-GST dated 28th June, 2019\]](#)

Clarification on treatment of secondary or post-sales discounts under GST

The Central Government vide [Circular no. 105/24/2019 dated 28th June,2019](#) has clarified various issues regarding treatment of secondary or post –sales discount which are as follows:

1. It is clarified that if the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer’s end, then the post sales discount given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply.
2. If the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity and the dealer being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit of the GST so charged by the dealer.
3. If the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume,

then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer and this additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer.

[[Circular no. 105/24/2019 dated 28th June, 2019](#)]

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