

Goods and Services Tax Update – Some important changes

G.Srikanth, FCA

Partner

GSV Associates, Chartered Accountants

On 6 October 2017, the Government, through a Press Release announced a slew of measures to grant relief to large sections of the business community, with particular focus on the Exporting Community. Notifications/circulars in this regard is awaited and when they do come, they will add to the burgeoning number of notifications, circulars and orders issued so far. The Press Release ushers in many changes sought for by the exporting sector and will change the way GST will impact Exporters in future. The earlier notifications and circulars on Bond/LUT etc. will no longer be relevant once the Press Release takes a legal avatar. As far as other notifications prior to the Press Release is concerned, many deal with due dates for filing and extension thereof, and others with exemptions from registration in certain cases, reduction in rates, providing alternative forward charge mechanism in certain cases, and so on.

Let us now take stock of some of the important changes made through notifications and the Press Release¹.

1. Revised Due Dates for Filing returns:

A normal dealer is required² to file inter alia, the following 3 returns within the dates mentioned below:

GSTR 1	GSTR 2	GSTR 3
On or before 10 th of succeeding month	11 th to 15 th of succeeding month	On or before 20 th of succeeding month

Sensing the difficulty of many tax payers in transitioning to a new system of filing returns and with the technical glitches in GSTN portal, a summary monthly return in GSTR 3B³ was introduced as a stop-gap arrangement. The due dates for GSTR 3B for July being Aug 25/28th and that of August being Sept 20th, are well past us and hopefully have been filed. Don't worry if your GSTR 3B contains errors - you can correct any inaccuracies through the GSTR 1 and 2 subsequently⁴. So, gear yourselves up to file GSTR 3B for September and subsequent months for which the due date falls on 20th of the subsequent months⁵.

¹ 6 Oct 2017

² Sec 37 of CGST Act

³ Notn.17/2017 amending CGST Rules

⁴ Cir 7/7/2017

⁵ Notn.35/2017-CT

The due dates for filing the regular GSTR 1, 2 and 3 have been notified for July⁶. The Return of Outward Supplies in GSTR 1 is due for filing on or before 3rd October if your turnover is in excess of Rs. 100 crores, and on 10th October for all other cases. So, we are well past the due date. Delay in filing is visited with late fee in addition to interest. The Return of Outward Supplies in GSTR 2 falls due by 31 October and Monthly return in GSTR-3 shall be filed by 10th November. The next challenge therefore, is to verify the auto-populated GSTR 2A and file GSTR 2 before end of October 2017.

It may be noted that revised due dates for August and successive months are yet to be notified.

TRANS 1 which is the return that enables you to carry over the old duties and taxes as of 30 June 2016 into your Electronic Credit Ledger is due for filing on 31st October 2017⁷. If you have filed your TRANS 1 return on or before 30 September 2017, you have just one chance to revise it⁸. Any hasty goof-ups here and you can repent at leisure!

2. Change in GST Rates – A roller-coaster ride!

- ❖ Duty Credit Scrips, originally classified under 12% GST has been reclassified⁹ under 5%. While it spells good news for those looking to sell their MEIS Scrips, the *Press Release goes one step further reducing the duty incidence to Zero!*
- ❖ GTA services which hitherto attracted a 5% GST (allowing ITC for the customer, but not for the GTA) comes with an alternative, enabling the GTA to charge 12% GST with a right to claim ITC¹⁰. Hence if your GTA starts charging GST at 12%, don't be surprised!
- ❖ GST on Works Contract services in relation to pollution control or effluent treatment plant (except when located as part of a factory) is now down from 18% to 12%¹¹. This benefits CETPs who are already reeling under severe financial stress. All payments from nodal agencies such as the Council for Leather Exports, under the ASIDE and other schemes will also get this benefit, with the cost of the project coming down to that extent.
- ❖ The undernoted notification¹² for the Printing industry could incidentally be of interest to the leather industry. This addresses GST on job work in relation to printing of newspapers, books, journals and periodicals, with only content supplied by the publisher. The physical inputs including paper used for printing belong to the Printer.

⁶ Notn. 30/2017-CT

⁷ Order 3/2017

⁸ Notn. 34/2017-CT

⁹ Notn. 27/2017 - CT(R)

¹⁰ Notn.22/2017-CT(R)

¹¹ Notn.24/2017-CT

¹² Notn.20/2017-CT(R)

The GST rate that was originally 5%¹³ has now been revised upwards to 12% to enable the Printer absorb the input tax credits. The recent GST Council decision on 6th October 2017 has further rationalized the rates for the Printing Job Work Industry – increasing rates if input content is higher, and reducing rates if input content is lower. This situation is quite similar to a Job Worker in the leather industry who uses his own chemicals in processing leather belonging to the Principal Manufacturer. One hopes that the rates for Job Work with Material for the Leather Industry is also rationalized. It would be in the fitness of things if the GST rate for ‘Job work with Material’ is revised upwards from 5%. This will enable job workers to adjust the input credits without the need to apply for refund.

3. Exemptions for certain Inter State activity – Some friendly measures!

3.1. Inter State Job Work:

For those who were doing business with small-scale unregistered job workers across States, GST was a spoil-sport. In terms of the CGST Act¹⁴, any one engaged in supply of goods or services across States would have to mandatorily register himself under GST. With many small-scale Job Workers refusing to register, manufacturers in other States were left in a bind. Now, thanks to the undernoted notification¹⁵, unregistered Job workers who are not liable to get registered can now engage in inter-state supply of services without the hassle of registering themselves. Subject to the condition that the services are in relation to goods requiring Eway Bill, such Job Workers have been exempted from registration. The flip side though is that the goods sent on job work to an unregistered dealer does not get the benefit of uninterrupted input credit nor the other benefits of Job work as per the CGST Act. For instance, the input credit in respect of the goods sent out has to be reversed by the Principal manufacturer only to be restored when the Job worker returns the finished goods. The goods can also not be supplied directly from the unregistered Job worker place to the customer – facility that is extended to registered job workers. The activity would also entail payment of GST by Reverse Charge Mechanism. The recent Press Release has extended this exemption from registration to all service providers whose annual aggregate turnover is less than the threshold limit.

3.2 Inter State supply of Handicraft Items:

A similar exemption is provided for supply of leather articles falling under 4201, 4202 and 4203 from one State to another. The supplier of such handicraft goods is exempted from registration provided his annual taxable supply from such activity does not exceed Rs. 20 lacs¹⁶. Another requirement is that the supplier would however require to have a PAN and should supply the goods only through an Eway bill. This is apparently to remove the hurdles imposed on Inter-State supplies on Handicraft products.

¹³ Notn.11/2017-CT(R)

¹⁴ Sec 23

¹⁵ Notn.7/2017-Integrated

¹⁶ Notn.8/2017-Integrated

4. Requirement of Bank Guarantee –Press Release and subsequent notification/Circular - Removing an irritant

The rules, clarifications and concession on the above matter, given under various notifications¹⁷ and Circulars¹⁸ have now been superseded by the undernoted notification¹⁹ following the recent Press Release. As a result, the days of Bond and Guarantee are *passé* except in cases where the exporter was prosecuted in the past. Exporters need to execute only a Letter of Undertaking. The undernoted Circular²⁰ clarifies the new position as under (*only major items listed*):

- Facility of LUT extended to all Exporters except those prosecuted in the past in respect of any offence under CGTST, IGST or previous laws for a tax exceeding Rs. 2.50 lacs.
- LUT is valid for one year, revocable any time on breach of the undertaking and will be restored upon regularization.
- LUT shall be on letter head in duplicate as per RFD 11 and signed by Authorized Person.
- LUT shall be accompanied by self-declaration that the Exporter does not fall under the prosecution category.
- Those ineligible for LUT (exporters who were prosecuted) shall execute a Running Bond on Non-Judicial Stamp Paper as per RFD 11 and signed by Authorized Person. This shall be accompanied by Bank Guarantee for 15% of the Bond Value.
- Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done.

5. Application for refund – RFD 01 – Will the Door open?!

In terms of Rule 89 of CGST Rules read with Sec 54 of the CGST Act, application for refund from electronic credit ledger (read Input Tax Credit) shall be made in Form RFD 01 in the appropriate annexure. That the refund application has not been released in the GSTN Portal is a matter of concern for those who have opted for refund of ITC. Even those who had opted for Duty Drawback In lieu of Central GST and Integrated GST refund would be unable to claim refund of State GST.

The situation is not any better for those who have opted for refund of IGST on exports. Here, the monthly return in GSTR 3 or 3B along with the Shipping Bill constitutes a valid application²¹. The export details in GSTR 1 is compared with the Customs Portal and then the refund is released. For July 2017, GSTR 1 would have been filed only by 10 October. For August, none of the forms except GSTR 3B are released, and due dates are not announced. The processing of refund had therefore become a non-starter. The Government has assured²²

¹⁷ Notn. 16/2017-CT

¹⁸ Circular 2, 3 and 4 -GST

¹⁹ Notn. 37/2017-CT

²⁰ 8/8/2017-GST

²¹ Rule 96 of CGST Rules

²² Press Release dt/22 Sept 2017

that an alternate mechanism of Form 3B linked to GSTR 1 would be introduced to process the refunds²³. Please refer the section on Press Release which deals with the proposed measures to expedite issue of refunds. One hopes that Exporters start getting their working capital back into the system.

6. Press Release – A sigh of relief for Exporters (Effective from a date to be notified)

In light of the held-up refunds and the working capital stress experienced by Exporters, the Press Release of 6 October 2017 has some welcome announcements.

6.1. Release of held-up IGST refunds of July 2017 from 10/10/2017:

- ✓ This is relevant for those exporters who have opted for refund of 'IGST Paid' on Exports. Those who have opted for Duty Drawback (majority of exporters) need not be concerned about this relief. A recent Instruction²⁴ from Customs shows that the Hardware and software in PFMS systems are under migration to the new system and hence refund of IGST paid through the PFMS portal would not happen from 10 October but instead from 16 October.

6.2. Release of IGST refunds of August 2017 from 18/10/2017 and for subsequent months on expeditious basis:

- ✓ Again, this would help those who have opted for IGST paid route and does not concern exporters who have opted for DBK. However, GSTR 1 containing shipping bill details etc. is a pre-requisite for refund of IGST. This has so far not been enabled for August.

6.3. Release of refunds for those who opted for LUT/Bond Scheme:

- ✓ Refunds of input taxes on exports under Bond/LUT, shall be processed from 18.10.2017 onwards. But with RFD 01 still not enabled, perhaps the Government will find an alternative to process the refund. For this, the Council agreed to suitably empower Central and State GST officers so that exporters get refunds from one authority only. Related matters of settlement of funds are being resolved.

6.4. Exemption from IGST and Cess on Imports (Immediate Relief):

- ✓ Holders of Advance Authorisation / EPCG and EOUs would not have to pay IGST, Cess etc. on imports. This exemption is only for those exporters who hold AA/EPCG or EOUs.

6.5. Zero tax on supplies by Domestic Supplier to certain Exporters (Immediate Relief):

- ✓ Domestic supplies to holders of Advance Authorisation / EPCG and EOUs would be treated as deemed exports. This means that domestic suppliers shall apply Zero rate on their supplies to such Exporters. Till date, domestic procurement by exporters

²³ 6 Oct 2017

²⁴ 16/2017 dated 9 October 2017

suffered GST at the appropriate rate. This resulted in cash outflow for exporter. Now, supplies to exporters holding AA/EPCG or EOUs are also 'deemed' as exports and hence zero rated. The domestic suppliers shall be entitled to refund of input taxes. This is a welcome move. But this does not cover procurements by all exporters.

6.6 Reduced GST on supply to Merchant Exporters (Immediate Relief):

- ✓ Merchant exporters will now have to pay nominal GST of 0.1% for procuring goods from domestic suppliers for export. The details would be released soon. An Impact Study on a Rs. 100 crore integrated Unit showed that additional working capital on account of GST would be around Rs. 170 lacs. In this background, the decision to reduce GST on domestic procurement to 0.1% is a welcome move. This will reduce stress on working capital. The 0.1% itself is only to enable the domestic supplier to apply for refund as complete exemption will deny them the entitlement to refund, as per law.

6.7. Introduction of e-wallet:

- ✓ "e-Wallet" would be credited with a notional amount as if it is an advance refund. This credit would be used to pay IGST, GST etc. The details of this facility would be worked out soon. Expected to be made operational w.e.f. 1st April 2018. Once the permanent solution in the form of "e-wallets" is operationalized, it is expected that blockage of working capital in the form of GST would be addressed. Exporters can breathe a little easy.

6.8. No Bond or Bank Guarantee:

- ✓ This measure has since been notified²⁵ and Exporters have been exempted from furnishing Bond and Bank Guarantee when they clear goods for export.

6.9. Suspension of Reverse Charge:

- ✓ Reverse charge payable on procurement of goods or services from unregistered persons is suspended till 31 march 2018 and reviewed by a Committee of Experts. This is one more measure that can ease the working capital and compliance burden, not only for exporters but all registered person.

Notifications galore – Need for stability in Tax Laws

One will be amazed by the sheer volume of Notifications, Circulars, Orders and Press Releases issued since the implementation of GST. When this piece went for print, Notifications numbered 37 in Central Tax, 30 in Central Tax (Rate), 8 in Integrated Tax, 31 in Integrated Tax (Rates) with an equal number in State Tax notified or expected to be notified. On top of this, 8 Circulars in Central Tax, 2 in Integrated Tax and 4 Orders make the total announcements 113, not counting State, Union Territory and Compensation Cess and Customs announcements. One wonders if GST will also go the Excise/Customs way of administration

²⁵ Notn.37/2017-CT

by delegated /subordinate legislations. These are early days yet, and with many of the announcements bringing in relief to tax payers, one hopes tinkering in laws and regulations will gradually reduce. It should not be forgotten that stability in tax laws is important to maintain simplicity and promote ease of business. The great Nani Palkhivala once said '*stability in tax laws is to a nation what stability in family is to an individual*'! It is fervently hoped that further changes through delegated legislation is made only when absolutely necessary.
