

SNSC 28/04/2018

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# GST LATEST AMENDMENTS & ADVANCE RULING UNDER GST

# NOTIFICATIONS

## Notifications [Central Tax] – 14/2018, Dt. 23.03.2018

- Amendment in Rule 45. **Conditions and restrictions in respect of inputs and capital goods sent to the job worker.**
- (1) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, **[and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker:**
- **Provided that the challan issued by the principal may be endorsed by the job worker.....**
- **Provided further that the challan endorsed by the job worker may be further endorsed by another job worker.....**

## Notifications [Central Tax] – 16/2018, Dt. 23.03.2018

- **Notifications – 16/2018, Dt. 23.03.2018**
- hereby specifies that the return in FORM GSTR-3B for the month as specified in column (2) of the Table below shall be furnished electronically through the common portal, on or before the last date as specified in the corresponding entry in column (3) of the said Table, namely:-

<b>S. No</b>	<b>Month</b>	<b>Last date for filing of return in FORM GSTR-3B</b>
(1)	(2)	(3)
1.	April, 2018	20 <sup>th</sup> May, 2018
2.	May, 2018	20 <sup>th</sup> June , 2018
3.	June, 2018	20 <sup>th</sup> July, 2018

# Notifications [Central Tax] – 17,18/2018, Dt. 28.03.2018

## ➤ Notifications – 17/2018, Dt. 28.03.2018

- Notifies 31<sup>st</sup> July 2018 as the time limit for furnishing FORM GSTR-1 for June'2018 quarter, by registered persons having aggregate turnover of less than Rs. 1.5 crore.

## ➤ Notifications – 18/2018, Dt. 28.03.2018

- extends the time limit for furnishing FORM GSTR-1 U/s 37(1), by registered persons having aggregate turnover of more than Rs. 1.5 crore, till the time period as specified in the corresponding entry in column (3) of the below Table, namely:

S. No	Month	Last date for filing of return in FORM GSTR-1
(1)	(2)	(3)
1.	April, 2018	31 <sup>st</sup> May, 2018
2.	May, 2018	10 <sup>th</sup> June , 2018
3.	June, 2018	10 <sup>th</sup> July, 2018

# Other Developments – GSTR 2 & 3

## SMS received from STBA – Only FYI

D/M, On 17.04.2018 the Office Bearers attended the GST Council's GOM (Group of Ministers) meeting at Vigyan Bhawan, New Delhi. Ours was the only Bar from Delhi which was invited. One thing that emerged from this meeting is that **it is now almost sure that the Govt. is not going to come out with GSTR-2 & 3.** They are wanting to go in for a single monthly return, the modalities of which were discussed in the meeting. We also presented our suggestions and views on various proposed models for simplification of the GST Returns. This is for information. TEAM STBA.

## **Notifications [Central Tax] – 19/2018, Dt. 28.03.2018**

- **Notifications – 19/2018, Dt. 28.03.2018**
- Extends the time limit for furnishing the return by an Input Service Distributor in FORM GSTR-6, for the months of July, 2017 to April, 2018, till the 31st day of May, 2018

# Notifications [Central Tax] – 20/2018, Dt. 28.03.2018

- Preceding Notifications
- – No. 3/2017-Central Tax,, Dt.19th June, 2017
- - No. 14/2018-Central Tax, Dt. 23rd March, 2018
  
- **Notifications – 20/2018, Dt. 28.03.2018**
- The specified persons, as notified under Section 55 of the said Act, who are entitled to refund, the period of making a refund application has been extended from “before the expiry of **six months** from the last day of the quarter in which such supply was received”, to **eighteen months**



## Notifications [Central Tax] – 21/2018, Dt. 18.04.2018

- In rule 89, for sub-rule (5), the following shall be substituted, namely:-
- “(5). In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-
- **New Rule:**
- Maximum Refund Amount =  $\{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\}$  - tax payable on such inverted rated supply of goods and services.
- **Old Rule:**
- Maximum Refund Amount =  $\{(\text{Turnover of inverted rated supply of goods}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\}$  - tax payable on such inverted rated supply of goods

## Notifications [Central Tax] – 21/2018, Dt. 18.04.2018

- “Net ITC” shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding – (a) the value of exempt supplies other than zero-rated supplies and 69 (b) the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any, during the relevant period;

# Notifications [Central Tax (Rate)] – 10/2018, Dt. 23.03.2018

- Preceding Notifications
  - – 8/2017, Dt. 28<sup>th</sup> June 2017 – gave exemption of Rs. 5,000/- per day U/s 9(4).
  - - 38/2017, Dt. 13<sup>th</sup> October 2017 – Deferred the applicability of reverse charge U/s 9(4) till 31<sup>st</sup> March 2018.
- **Notifications – 10/2018, Dt. 23.03.2018**
  - Seeks to exempt payment of tax under section 9(4) of the CGST Act, 2017 **till 30.06.2018.**

# **CIRCULARS**

# Circular – No. 38/13/2018, Dt. 26.03.2018

## Clarification on issues related to Job Work:

- As per clause (68) of section 2 of the CGST Act, 2017, “job work” means any treatment or process undertaken by a person **on goods belonging to another registered person** and the expression “job worker” shall be construed accordingly.
- The registered principal **may, without payment of tax, send inputs or capital goods to a job worker for job work** and, if required, from there subsequently to another job 2 worker and so on.
- Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker.
- the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal.

## Circular – No. 38/13/2018, Dt. 26.03.2018

### Clarification on issues related to Job Work:

- if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal.
- **Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back** by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out.

## Circular – No. 38/13/2018, Dt. 26.03.2018

**Q.** Whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job work?

**A.** The important words are “**treatment or process undertaken by a person on goods belonging to another registered person**”

Thus, the job worker is expected to work on the goods sent by the principal and in addition to the goods received from the principal, **can use his own goods for providing the services of job work.**

**Q.** Whether a job-worker is required to get himself, if

a. He is in the same state as Principal

b. He is in different state than that of Principal.

**A.** A job worker is required to obtain registration only when he exceeds the aggregate turnover of 20(10) Lakhs.

Notification No. 10/2017 – Integrated Tax dated 13.10.2017

## **Circular – No. 38/13/2018, Dt. 26.03.2018**

**Q.** Whether the principal can supply goods directly from the job worker's place of business / premises to its end customer?

If yes, whether the supply will be regarded as having been made by the principal or by the job worker?

**A.** The supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker as specified in section 143(1)(a) of the CGST Act.

**Q.** What documents and intimation required for movement of goods from the principal to the job worker?

1. Goods shall be sent under the cover of a challan issued by the principal, containing the details specified in rule 55 of the CGST Rules.
2. The principal is also required to file FORM GST ITC-04 every quarter stating the said details.



## Circular – No. 38/13/2018, Dt. 26.03.2018

3. An e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees
4. The third proviso to rule 138(1) of the CGST Rules provides that in case of **inter-state movement of goods for job-work**, the **e-way bill shall be generated** either by the principal or by the registered job worker **irrespective of the value of the consignment**.
5. An e-way bill shall be generated by the principal, wherever required, in case the job worker is unregistered.
6. **Principle to Job-worker** -The principal shall prepare in triplicate, the challan in terms of rules 45 and 55 of the CGST Rules, for sending the goods to a job worker.

Two copies of the challan may be sent to the job worker along with the goods.

The job worker should send one copy of the said challan along with the goods, while returning them to the principal.

## Circular – No. 38/13/2018, Dt. 26.03.2018

7. **Where the goods are sent directly by the supplier to the job worker**, the supplier shall send a copy of invoice, wherein name of job-worker is mentioned as consignee.

The buyer (i.e., the principal) shall issue the challan under rule 45 of the 7 CGST Rules and send the same to the job worker directly.

8. **In case of import of goods by the principal which are then supplied directly from the customs station of import** – The goods would move with a copy of the Bill of Entry and the principal shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly.
9. **Where goods are returned in piecemeal by the job worker:** A fresh challan is required to be issued by the job worker and the challan issued originally by the principal cannot be endorsed.

## Circular – No. 38/13/2018, Dt. 26.03.2018

**Q.** Whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services?

**A.** The value of such moulds and dies, jigs and fixtures or tools **may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker.**

## **Circular – No. 38/13/2018, Dt. 26.03.2018**

**Q.** Whether Principal can make supply of goods from the place of Jobworker?

**A.** Yes, provided he declares the job worker's place of business / premises as his additional place of business or if the job worker is registered.

Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

**Q.** Can a supply of waste and scrap generated during the job work, be made from job-workers premises?

**A.** The waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business or by the principal in case the job worker is not registered.

## Circular – No. 39/13/2018, Dt. 03.04.2018

- Setting up of an IT Grievance Redressal Mechanism to address the grievances of taxpayers **due to technical glitches** on GST Portal.

## **Circular – No. 40/14/2018, Dt. 06.04.2018**

- The registered person (exporters) shall fill and submit FORM GST RFD-11 on the common portal.
- An LUT shall be deemed to be accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.
- No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.
- An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online.
- If an exporter was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017-Central Tax, then the exporter's LUT will be liable for rejection.
- In case of rejection, the LUT shall be deemed to have been rejected ab initio

## **Circular – No. 41,42 & 43/14/2018, Dt. 13.04.2018**

- Circular no 41 - Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.
- Circular no 42 - Clarification regarding procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit.
- Circular no. 43 - Queries regarding processing of refund applications for UIN agencies.

# ORDERS



# Orders

## **Order No. 1 Dt. 28<sup>th</sup> March 2018:**

Extension of date for submitting the statement in **FORM GST TRAN-2** under rule 117(4)(b)(iii) of the Central Goods and Service Tax Rules, 2017, **till the 30th day of June, 2018.**

## **Order No. 2 Dt. 31<sup>st</sup> March 2018:**

- **Incidence of GST on providing catering services in train** – the GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms (static units), **will be 5% without ITC.**

**OTHER**

# E-way Bills

**Following states have introduced E-way bills for intra state movement of goods, w.e.f 15<sup>th</sup> April 2018:**

1. Andhra Pradesh
2. Gujarat
3. Kerala
4. Telangana
5. Uttar Pradesh

**Following states have introduced E-way bills for intra state movement of goods, w.e.f 20<sup>th</sup> April 2018:**

1. Bihar
2. Jharkhand
3. Haryana
4. Himachal Pradesh
5. Tripura
6. Uttarakhand

# E-way Bills

**Following states have introduced E-way bills for intra state movement of goods, w.e.f 25<sup>th</sup> April 2018:**

1. Madhya Pradesh
2. Arunachal Pradesh
3. Sikkim
4. Meghalaya

# E-way Bills

Notification No. 02 to 06 /2018-UT Tax all dated 31st March, 2018

No E way Bill requirement for Intra-State Supplies in 5 Union Territories viz.

- a. Lakshadweep
- b. Daman & Diu,
- c. Dadra & Nagar Haveli,
- d. Chandigarh and
- e. Andaman & Nicobar Islands

# GST Portal

## **Following tools have been introduced on GST Portal:**

1. Offline Tool of Form GSTR 1 has been modified to allow taxpayer to delete more than 2500 Invoices at one go.
2. A Reset Button has been enabled for Form GSTR 3B, which were in submit status as on 20th February 2018. Taxpayers can now click on the reset button, which opens up Form GSTR-3B in edit mode. After filling the details, taxpayers can offset their tax liability and file Form GSTR-3B.
3. Taxpayers can now declare their opening stock and related ITC claim, on additional HSN stock line items, not declared in Form GSTR TRAN-2 of July, 2017, while furnishing Form GSTR TRAN-2 for the month of August 2017, onwards.
4. Taxpayers can now offset their outstanding demands, entered in Form GST DRC-07 by tax official, with the credit/cash as available with them in ITC/Cash Ledgers

# GST Portal

## **Application for Revocation of cancellation of registration:**

Facility to apply for Revocation of cancellation of Registration has been enabled on GST Portal (refer Rule 23(1) of the CGST Rules, 2017).

This form will enable Tax payers whose registration has been cancelled via Suo-moto Cancellation route, to apply for revocation of their cancellation of registration.

# GST Portal

## **Application for grant of UIN to UN Bodies/Embassies/ Other Notified Person**

Facility to apply for grant of Unique Identity Number to UN Bodies/Embassies/Other Notified Person has been enabled on GST Portal ( refer Rule 17(1) of the CGST Rules, 2017).

This form will enable UN Bodies/Embassies/Other Notified Person to apply for grant of Unique Identity Number to them.



# GST Portal

## **Statement Upload Functionality in RFD-01A**

As per existing refund workaround implementation, refund application RFD-01A is filed by taxpayer, without any facility for statement upload.

The refund application is filed on a summary level and taxpayer approaches refund processing officer with details. Refund processing officer, based on the details provided by the taxpayer, manually processes the refund claim and updates the refund claim status through RFD-01B on the online portal.

**A functionality of uploading the statement by the taxpayer, while filing refund application in Form GST RFD-01A, has been provided.**

The refund processing officer can view and download this statement in CSV format, with the refund application in RFD-01B.

# GST Portal

## **Surrender of registration by the taxpayers:**

Form GST REG-29 {application for cancellation of provisional registration ( by migrated taxpayers who have not done any activity in GST), refer Rule 24 (4) of the CGST Rules, 2017} has been disabled on GST Portal, since last date to file Form GST REG-29 was 31st March, 2018.

- Now, these taxpayers have to file their cancellation of registration request, in Form GST REG-16 (application for cancellation of registration, refer Rule 20 of the CGST Rules, 2017).



#### E-WAY BILL FAQs

**Q. User is getting error - For Intra state movement of goods, E-Way Bill Portal is not enabled currently (SEZ user).**

A. For Intra state movement of goods including SEZ E-Way Bill facility has not been enabled currently. Hence you are not required to generate the E-Way Bill if the buyer and seller are located within the same state even though recipient is a SEZ taxpayer.

# Latest Case Laws/AAR Orders

**AAR Mumbai, vide order No. GST-ARA-18/2017-18/B-25 Mumbai, dt. 05/04/2018, has decided in negative against the query:**

Whether accumulated credit by way of Krishi Kalyan Cess (KKC) as appeared in the Service tax return of Input Service Distributor (ISD) ON June 30, 2017 which is carried forward in the electronic credit ledger maintained by the company under CGST Act 2017, will be considered as admissible input tax-credit?

# Latest Case Laws/AAR Orders

## **AAR Kerela ORDER No.CT/531118-C3 DATED 26/03/2018**

*"Whether reimbursement of food expenses from employees for the canteen provided by company comes under the definition of outward supplies as taxable under GST Act.*

Concluded: - That recovery of food expenses from the employees for the canteen services provided by company would come under the definition of 'outward supply', hence taxable.

# Other Updates

- Fourth Amendment to CGST rules notified vide notification
- no.21/2018-Central Tax dated 18.04.2018



# Other Updates

- In FORM GST ITC-03, after entry 5 (e), for the instruction against “\*\*”, the following shall be substituted, namely:-
- “The value of capital goods shall be the invoice value reduced by **1/60th per month or part thereof from the date of invoice**”;
- Earlier the instruction was – “The value of capital goods shall be the invoice value reduced by **five percentage points per quarter** of a year or part thereof from the date of invoice”



# Other Updates

- **Form GSTR-10 – Final Return under Rule 81** of the CGST Rules, 2017 specified
- Final return is required to be filed under Section 45 of the CGST Act, 2017 by every registered person who is required to furnish a return under section 39(1) and Final Return Format
- whose registration has been cancelled
- within three months of the date of cancellation or date of order of cancellation, whichever is later





# Other Updates

- **FORM GSTR-4- Composition Dealers - Clarification on Filling of Table 4A of GSTR-4**
- **4A - Inward supplies received from a registered supplier (other than supplies attracting reverse charge)**
- For the tax periods July, 2017 to September, 2017 and October, 2017 to December, 2017, serial 4A of Table 4 shall not be furnished.
- It is clarified that since auto-population of the details of the inward supplies including supplies on which tax is to be paid on reverse charge is not taking place, taxpayers who have opted to pay tax under the composition levy **shall not furnish the data in serial number 4A of Table 4 of FORM GSTR-4 for the tax periods January, 2018 to March, 2018 and subsequent tax periods.**

# **ADVANCE RULING UNDER GST**

# Advance Ruling Under GST

- As per section 95 of CGST/SGST Law, 'advance ruling' means a written decision provided by the authority to an applicant on matters or on questions as enumerated in
- section 97(2)
- appeals thereon (section 100(1)).
- In relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

# Advance Ruling Under GST

## ❖ Jurisdiction

- ❑ Each State will have its own Advance Ruling Authority.
- ❑ The Authority will comprise one member CGST and one member SGST.

## ❖ Who can apply?

- ❑ Any person registered **or desirous of obtaining registration** under the Act.

# Advance Ruling Under GST

**Section 97 - The question on which the advance ruling is sought under this Act, shall be in respect of,—**

- a) Classification of goods / services;
- b) Applicability of a notification
- c) Principles to be adopted for the purposes of determination of value of the goods and/or services
- d) Admissibility of input tax credit of tax paid or deemed to have been paid;

# Advance Ruling Under GST

- e) Determination of the liability to pay tax on any goods and/or services under the Act;
- f) Whether applicant is required to be registered under the Act;
- g) Whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term.

*Note: Advance ruling would not cover determination of place of supply*

# Advance Ruling Under GST

## Procedure and Practical Tips:

1. Prepare five sets, four sets to be submitted to department and kept with self.
2. Fees of Rs. 5000/- under CHST and SGST Laws, to be paid online.
3. Prepare Index and do page numbering, and tag the sets.
4. Signature on every page.
5. POA of attorney to be attached.
6. The department might ask you to sign a check list.

# Advance Ruling Under GST

## Procedure and Practical Tips

7. Please make sure that you are filing your application with right jurisdictional office(State).
8. First hearing for acceptance/rejection of your application – Section 98(2).
9. If application is accepted, then next hearings would be there – can be more than one.
10. You can give additional submissions during acceptance or hearings.
11. Final Order of AAR, within 90 days of receipt of application – Section 98(6)



# Advance Ruling Under GST

## Rejection of Advance Ruling Application :

Application has to be invariably rejected in certain situations as prescribed under section 98 (2) which are enumerated as below:

- (a) if the question raised in the application is already pending in the applicant's case before any First Appellate Authority, the Appellate Tribunal or any Court;
- (b) if the question raised in the application is the same as in a matter already decided by the First Appellate Authority, the Appellate Tribunal or any Court;
- (c) if the question raised in the application is the same as in a matter in the applicant's case already decided by the adjudicating authority or assessing authority, whichever is applicable.

# Advance Ruling Under GST

## **Rejection of Advance Ruling Application :**

If the application is rejected, it should be by way of a speaking order giving the reasons for rejection.

Provided further that no application shall be rejected under this subsection unless an opportunity of hearing has been given to the applicant:

# Advance Ruling Under GST

## Appeal against the order of AAR :

- The If the applicant is aggrieved with the finding of the AAR, he can file an appeal with AAAR (Appellate Authority of Advance Ruling).
- Similarly, if the prescribed or jurisdictional officer of CGST/SGST does not agree with the finding of AAR, he can also file an appeal with AAAR.
- The concerned officer will be the officer in whose jurisdiction the applicant is located. In such cases the concerned officer will be the jurisdictional CGST/SGST officer

# Advance Ruling Under GST

## Appeal against the order of AAR :

- Any appeal must be filed within thirty days from the receipt of the advance ruling. The appeal has to be in prescribed form and has to be verified in prescribed manner. This will be prescribed in the Model GST Rules.
- The Appellate Authority must pass an order after hearing the parties to the appeal within a period of ninety days of the filing of an appeal.
- If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling is issued in respect of the question under appeal.

# Advance Ruling Under GST

## **Section 103(1) - Advance Ruling is Binding on :**

- (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
- (b) on the concerned officer or the jurisdictional officer in respect of the applicant.

**Section 103(2)** - The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

Note: **Advance ruling is not applicable to similarly placed taxable persons in the State.**

# Advance Ruling Under GST

## Section 104(1) – Advance ruling to be void ab initio in certain circumstances:

- Advance ruling shall be held to be ab initio void if the AAR or AAAR finds that the advance ruling was obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts.
- In such a situation, all the provisions of the CGST/SGST Act shall apply to the applicant as if such advance ruling had never been made

- Thank you!
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The views expressed herein are individual and personal in nature and neither the organizing body nor the representative firm has endorsed or supports nor rejects the view of the individual. Reliance on matter herein should be after due care and professional advice.