



# #13

10/18

DEBT EQUITY

**GST**

GOODS & SERVICES TAX

Audit

SBS



UPDATES COVERED:

1. GST UPDATES FOR THE MONTH OF OCTOBER 2018

**FEMA**

**INCOME  
TAX**



**SBS AND COMPANY LLP**  
CHARTERED ACCOUNTANTS

# GST UPDATES FOR THE MONTH OF OCTOBER 2018

- Compiled by Indirect Tax Division

## NOTIFICATIONS

### 1. NOTIFICATIONS ISSUED UNDER CGST ACT, 2017 REGARDING REFUND TO UIN ENTITIES ARE APPLICABLE TO GST (COMPENSATION TO STATES) ACT, 2017:

Section 55 of CGST Act, 2017 prescribes for refund of taxes paid by specified International Organizations, Foreign Diplomatic Missions or Consular Posts etc on notified supply of goods or services received by them subject to such conditions as may be prescribed. In this regard, Notification No. 16/2017--Central Tax (Rate) dated 28.06.2017 has been issued. A question was raised whether such entities can claim refund of the Compensation Cess paid on goods or services received by them. It was clarified that vide section 11 of Compensation Cess Act, 2017 that the provisions of CGST Act and SGST Act are applicable in relation to levy and collection of Compensation Cess. Therefore, the notifications issued under CGST Act except those prescribing rates or granting exemptions, are applicable for the purpose of the Compensation Cess Act. Accordingly, the said entities are eligible to claim refund of Compensation Cess also if any paid-on goods or services received by them.

**{CIRCULAR NO. 68/42/2018 – GST DATED 05.10.2018}**

### 2. GUIDELINES FOR DEDUCTION AND DEPOSIT OF TDS UNDER GST:

Every deductor who is required to deduct tax under Sec-51 of the CGST Act,2017 have to register on common portal as a 'Tax Deductor' and file form GSTR-7 monthly on or before 10th of the succeeding month. He has to issue a certificate to the deductee mentioning therein the contract value, rate of deduction, amount deducted etc. He shall deposit the amount of tax either by way of separate challan for every payment to be made or for a consolidated amount of tax deduction on a weekly, monthly or any periodic manner and shall prepare a bill specifying the details like total amount, net amount payable to the supplier, 2% TDS amount of GST keeping under suspense head. He shall maintain a register in the prescribed format for the amount of tax deducted.

**{CIRCULAR NO. 65/39/2018-DOR DATED 14.09.2018}**

The updates are - Compiled by Indirect Tax Division

✉ harsha@sbsandco.com

✉ manindar@sbsandco.com

### **3. GST ON RESIDENTIAL PROGRAMMES OR CAMPS MEANT FOR ADVANCEMENT OF RELIGION, SPIRITUALITY OR YOGA BY RELIGIOUS AND CHARITABLE TRUSTS:**

According to notification no 12/2017 – Central Tax (Rate) dated 28th of June 2017, the charitable activities mentioned therein performed by an entity registered under Section 12AA of the Income Tax Act, 1961 are exempt. As per the given notification, fee if any collected from the participants to conduct programs relating to advancement of religion, spirituality or yoga are exempt. Sometimes the programs offered are residential and the fee collected would include charges for accommodation, food, drinks. It is clarified that the fee towards accommodation, food, drinks would also be exempt if the predominant activity of such residential programmes is advancement of religion, spirituality and yoga.

**{CIRCULAR NO. 66/40/2018-GST DATED 26.09.2018}**

### **4. INSTRUCTIONS FOR PROCESSING OF APPLICATIONS FOR CANCELLATION OF REGISTRATIONS:**

Rule 20 of the CGST Rules, 2017 provides that the taxpayer applying for cancellation of registration shall submit the application in GST REG-16 within a period of 30 days of event warranting cancellation. It might be difficult in some cases to identify the exact day on which such event occurs. Hence it is clarified that 30-days deadline may be interpreted liberally and tax payers' application for cancellation of registration shall not be rejected for this reason.

It is also clarified that the cancellation shall be undertaken by the proper officer within 30 days of application except in cases where the form is incomplete or in cases where the cancellation is required because of transfer, merger or amalgamation of business and the new entity has not registered before submission of the application. In these situations, the officer is required to seek explanations with seven working days. If no reasons are received or reasons received are not satisfactory, then application can be rejected by proper officer after giving an opportunity to be heard to applicant.

In terms of Section 29(5) of CGST Act, 2017 read with Rule 20 of CGST Rules, 2017, the tax payer seeking cancellation of registration is under requirement to pay the amount of ITC involved on closing stock of capital goods, inputs, semi-finished goods and finished goods or the output tax payable on such goods whichever is higher. The payment can be made by way of debit to electronic cash or credit ledger. It is clarified that the requirement to pay can also be met after the application for cancellation has been filed at the time of submission of Final Return in GSTR-10.

It is also clarified that the tax payer who has filed the application for cancellation of registration is not required to file periodical returns from the date of registration to the date of application for cancellation if no taxable supplies are undertaken and an undertaking is furnished to this effect.

**{CIRCULAR NO. 69/43/2018-GST DATED 26.10.2018}**

The updates are - Compiled by Indirect Tax Division

✉ [harsha@sbsandco.com](mailto:harsha@sbsandco.com)

✉ [manindar@sbsandco.com](mailto:manindar@sbsandco.com)

## 5. CLARIFICATION ON DEFICIENCY MEMOS ISSUED FOR EXPORT REFUND APPLICATIONS:

It has been previously clarified through Circular No. 59/33/2018-GST dated 04.09.2018 that in case of deficiency memo issued for refund applications filed, the exporter is required to file a fresh application. It was also clarified that once a deficiency memo has been issued against an application for refund, the ITC debited at the time of filing application is required to be re-credited to electronic credit ledger of applicant by using GST RFD-01B. It is now clarified that GST portal does not allow taxpayer to file a fresh refund application for the same period on more than one occasion. Therefore, it is clarified that till such facility is developed in GST portal, taxpayers would be required to submit the rectified refund application manually under earlier ARN (generated at the time of filing the original application) only. It is also clarified that there is no requirement of re-credit of refund amount in cases where a deficiency memo has been issued.

**{CIRCULAR NO. 70/44/2018-GST DATED 26.10.2018}**

## 6. CLARIFICATION ON ISSUES RELATED TO CASUAL TAXABLE PERSON AND RECOVERY OF EXCESS ITC DISTRIBUTED BY ISD:

In case of taxpayer seeking registration as a casual taxable person, he is required to estimate the tax liability and deposit the tax in advance as specified in Section 27(2) of CGST Act, 2017. It is now clarified that the amount tax to be deposited should be calculated after considering the duly eligible ITC that might be available to such taxpayer.

As per Section 27 of CGST Act, 2017, the registration of a casual taxable person is operational for a period of 90 days with a provision for extension of same by proper officer for further period not exceeding 90 days. Thus, a taxpayer can operate under casual taxable person registration for a maximum period of 180 days. Various representations have been made that this registration period should be extended beyond 180 days period in cases of long run exhibitions (for a period more than 180 days). It is now clarified that the taxpayer cannot obtain registration as casual taxable person in these cases and he should obtain the registration as normal taxable person. It is also clarified that an allotment letter granting the taxpayer to use the premises for exhibition shall be treated as proof for place of business to grant the registration.

In cases of excess distribution of ITC by an Input Service Distributor, it is now clarified that such excess distributed ITC shall be recovered from recipients along with interest. Penalty shall also be imposed in those cases where the recipient does not come forward voluntarily to reverse or repay such excess distributed ITC. It is further clarified that the Input Service Distributor shall also be liable for a general penalty under Section 122 of CGST Act, 2017.

**{CIRCULAR NO. 71/45/2018-GST DATED 26.10.2018}**

The updates are - Compiled by Indirect Tax Division

✉ [harsha@sbsandco.com](mailto:harsha@sbsandco.com)

✉ [manindar@sbsandco.com](mailto:manindar@sbsandco.com)



## **7. CLARIFICATION ON PROCEDURE TO BE FOLLOWED FOR RETURN OF TIME EXPIRED DRUGS OR MEDICINES:**

In case of time expired drugs or medicines, it is a common practice to return the goods by retailer to wholesaler and from there to manufacturer. This circular has been issued to clarify that the returns can be undertaken by following any of the two procedures mentioned therein

Under the first procedure, the stock return shall be considered as fresh supply by recipient returning the stock and thereby issues an invoice for the same at the value at which the goods are originally received. The wholesaler/manufacturer who are in receipt of such return supply shall be eligible to avail Input Tax Credit on the tax levied on such return supply subject to fulfillment of conditions specified in Section 16 of CGST Act, 2017. In case the person returning the goods is a composition tax payer, then the return supply shall be made by issuing a bill of supply and pay the tax that is applicable for composition tax payer. In case the person returning the goods is unregistered person, then the return shall be made without charging any tax by issuing a commercial document.

Under the second procedure, the stock return shall be undertaken by recipient by issuing a delivery challan and the wholesaler/manufacturer may issue a credit note towards the return of stock. If such credit notes are issued not later than September following the end of Financial Year in which supply was made or date of furnishing of annual return whichever is earlier, then the recipient returning the stock will reduce his GST liability for the month in which such credit notes are received. In cases where the credit notes are issued after the expiry of the above time limit, then the recipient returning the stock cannot reduce the tax liability because of such credit notes.

In cases where such time expired goods returned by wholesaler/retailer are destroyed by manufacturer, then ITC attributable to the manufacture of such goods shall be required to be reversed in terms of Section 17(5)(h) of CGST Act, 2017.

**{CIRCULAR NO. 72/46/2018-GST DATED 26.10.2018}**

## **NOTIFICATIONS**

## **8. REVERSE CHARGE MECHANISM UNDER SEC-9(4) IS POSTPONED:**

Reverse charge applicability for goods or services procured from unregistered suppliers has been deferred by issuing various notifications from time to time till 30th September, 2018. Now this notification has been issued to defer its applicability till 30th September 2019.

**{NOTIFICATION NO. 22/2018- CENTRAL TAX (RATE) DATED 06.08.2018}**

The updates are - Compiled by Indirect Tax Division

✉ [harsha@sbsandco.com](mailto:harsha@sbsandco.com)

✉ [manindar@sbsandco.com](mailto:manindar@sbsandco.com)

## **9. RATIONALISING THE RESTRICTIONS TO CLAIM REFUND OF IGST PAID ON EXPORTS WHEN GOODS ARE IMPORTED UNDER EOU OR EPCG SCHEME:**

Rule 96 of CGST Rules, 2017 prescribes for refund of IGST paid on export of goods. Sub-rule (10) of the said rule prescribed a condition that the exporter of goods should not have procured the goods from a supplier who is availing deemed export benefit or procuring goods at a concessional rate of 0.1% as applicable to a merchant exporter or importing goods under EOU or EPCG scheme. In such cases, the Exporter must compulsorily export the goods under bond or LUT and can claim refund of accumulated ITC on actual basis to the extent of inputs used for exports under Rule 89(4B). Vide Circular No. 45/19/2018-GST dated 30.05.2018, it has been clarified by CBIC that the said restriction is only applicable to those exporters who are receiving goods from those suppliers availing the above said benefits. The restriction is not applicable to exporters who are directly importing the goods under EOU or EPCG scheme. Notification 39/2018-Central Tax dated 04.09.2018 has been issued to apply the said restriction retrospectively to exporter of goods who are importing the goods directly on their own under EOU or EPCG scheme.

This unexpected retrospective amendment denied refund for many of the exporters who have already imported goods under EOU or EPCG scheme and exported their goods by paying IGST. After due representations of the unwarranted hardship, the retrospective applicability of said restriction has been taken away and the said restriction is applicable prospectively from 09.10.2018. Further, the restriction is limited to imports under EOU scheme only and is not applicable to imports under EPCG scheme. Further, Rule 89(4B) is also amended in this context to provide that in cases where exporters have imported goods under EOU scheme, the refund of accumulated ITC can be given to the extent of actual availment of ITC on inputs used for exports.

**{NOTIFICATION 53/2018 – CENTRAL TAX AND 54/2018-CENTRAL TAX DATED 09.10.2018}**

## **10. EXPANSION OF THE LIST OF HANDCRAFTED GOODS TO GRANT EXEMPTION TO CASUAL TAXABLE PERSON FROM THE REQUIREMENT OF REGISTRATION:**

Notification 32/2017-Central Tax read with Notification 8/2017-Integrated Tax grants exemption from the requirement of registration to a casual taxable person engaged in supply of handcrafted goods provided that the aggregate turnover does not exceed twenty lakh rupees. These notifications are now superseded by the below mentioned notifications, which expands the list of handcrafted goods to allow the casual taxable persons dealing with such goods also to claim this benefit. The expanded list of handcrafted goods includes handbags, pouches, purses including jewellery box, wooden frames of painting, photographs, mirrors bangles, beads and small ware, ornamental framed mirrors, glass statutes etc.

**{NOTIFICATION NO. 56/2018-CENTRAL TAX & NOTIFICATION NO. 3/2018-INTEGRATED TAX DATED 23.10.2018}**

The updates are - Compiled by Indirect Tax Division

✉ [harsha@sbsandco.com](mailto:harsha@sbsandco.com)

✉ [manindar@sbsandco.com](mailto:manindar@sbsandco.com)

## **11. DUE DATE TO FILE FINAL RETURN FOR REGISTRATIONS THAT ARE CANCELLED ON OR BEFORE 30th SEPTEMBER 2018:**

In terms of Section 45 of CGST Act, 2017, every registered person whose registration has been cancelled shall be required to furnish a final return within three months of the date of cancellation in form GSTR-10. The GST portal has recently enabled with the filing facility of this return. In view of this reason, it is notified that persons whose registrations were cancelled on or before 30th September 2018 are required to file the final return till 31st December 2018.

**{NOTIFICATION NO. 57/2018-CENTRAL TAX DATED 26.10.2018}**

## **12. EXTENSION OF DUE DATE TO FILE GST ITC-04 TO 31st DECEMBER 2018**

In terms of Rule 45(3), the Principal is required to furnish the details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter in GST ITC-04 on or before 25th of the month succeeding the said quarter. Because of the GST portal related challenges, the due dates for filing this form for various quarters has been extended from time to time. It is now notified that the due date to file this form for the period July, 2017 to September, 2018 as 31st December, 2018.

**{NOTIFICATION NO. 59/2018-CENTRAL TAX DATED 26.10.2018}**

The updates are - Compiled by Indirect Tax Division

✉ [harsha@sbsandco.com](mailto:harsha@sbsandco.com)

✉ [manindar@sbsandco.com](mailto:manindar@sbsandco.com)