

NEWSLETTER

March 11, 2019; Volume 2/2019

*"Hard work beats talent,
when talent doesn't work
hard."*

NEWSLETTER COVERAGE

1. Important Circulars, Notifications & Orders
2. Legal Updates
3. Exclusive Updates
4. Compliance Calendar for the month of March 2019

From Editors Desk

Dear Readers,

We are back with yet another issue. Though, the E-versions of our newsletter are intended to be published fortnightly but this time due to issuance of various notifications and circulars by CBIC it becomes mandatory on our part to keep our readers updated.

Thus, this newsletter contains the GIST of all notifications and circulars issued with respect to GOODS AND SERVICES TAX in the most simplest and comprehensible way along with the Compliance Calendar for the month of March 2019.

Happy Reading ☺

CIRCULARS/NOTIFICATIONS

INDIRECT TAXES

[Threshold limit to take registration has been increased to Rs. 40 lakhs \[Notification No. 10/2019 - Central Tax dated March 7, 2019.\]](#)

As per Section 23 of CGST Act, every person is required to obtain the GST registration if his turnover from supply of goods or services exceeds Rs. 20 lakhs. This threshold limit has been increased to Rs. 40 lakhs if supplier is engaged in supply of goods. In other words, any person who is engaged in supply of goods and his total turnover in the current financial year does not exceed Rs. 40 lakhs, he is not required to take registration under GST. This exemption from GST registration is subject to various conditions, *inter-alia*, he is not making any inter-state supply; he is not a non-resident taxable person, etc.

[Due date for filing of GSTR-1 and GSTR-3B for has been announced \[Notification No. 11/2019, Notification No. 12/2019, and Notification No. 13/2019- Central Tax dated March 7, 2019\].](#)

The due dates for filing of GSTR-1 and GSTR-3B for the months of April, May and June of 2019 has been notified, which shall be as follows:

<i>Type of return</i>	<i>April, 2019</i>	<i>May, 2019</i>	<i>June, 2019</i>
GSTR-1 (Turnover more than 1.5 crore)	May 11, 2019	June 11, 2019	July 11, 2019
GSTR-1 (Turnover up to 1.5 crore)		July 31, 2019	
GSTR-3B	May 20, 2019	June 20, 2019	July 20, 2019

Turnover limit of current or previous financial year shall be considered to determine the eligibility of the supplier for filing of monthly or quarterly GST return.

[Threshold Limit for composition scheme has been increased to Rs. 1.5 crores\[Notification No. 14/2019 - Central Tax dated March 7, 2019\].](#)

The existing threshold limit on gross turnover in previous financial year to avail of the composition scheme has been increased from Rs. 1 crore to Rs. 1.5 crores. In respect of special category states (North-Eastern States), the threshold limit has been increased from Rs. 50 lakhs to Rs. 75 lakhs. Consequently, the taxable persons can substantially reduce their compliance burden as they would be required to file GST returns on quarterly basis instead of monthly.

[Benefit of composition scheme has been extended to service providers \[Notification No. 02/2019 - Central Tax \(Rate\) dated March 7, 2019\].](#)

Currently, the privilege of composition scheme is available only to the suppliers who are in to the business of supply of goods. The composition scheme was not available to the service providers except for the restaurant and catering services.

With effect from April 1, 2019 the service providers can also avail the composition scheme. This scheme shall be available subject to some conditions such as supplier is engaged in supply of goods or services within same state and the aggregate turnover of supplier does not exceed Rs. 50 lakhs during the financial year.

The benefit of this scheme shall not be available to service providers who are rendering services in multiples states or through e-commerce websites. Thus, Chartered Accounts, Architects, etc. may not avail this scheme if they have clients in different states.

The effect of all changes in the threshold limit for GST registration and composition scheme has been enumerated in below table.

<i>Nature of supply</i>	<i>Turnover or Receipts</i>	<i>Registration</i>	<i>Composition scheme</i>	<i>Rate of tax for composition scheme</i>
Goods	Up to 40 Lakhs	-	-	-
	More than 40 Lakhs but up to 1.5 crore	✓	✓	1% of the turnover
	More than 1.5 crore	✓	-	-
Restaurant Services	Up to 20 Lakhs	-	-	-
	More than 20 Lakhs but up to 1.5 crore	✓	✓	5% of the turnover
	More than 1.5 crore	✓	-	-
Other services	Up to 20 Lakhs	-	-	-
	More than 20 Lakhs but up to 50 Lakhs	✓	✓	6% of the turnover
	More than 50 Lakhs	✓	-	-

CIRCULARS

Circular clarifying various doubts related to treatment of sales promotion scheme under GST [Circular No. 92/11/2019-GST].

CBIC has issued clarifications on chargeability of GST, valuation of goods and reversal of ITC in respect of free samples and promotional goods distributed by a taxable person. The clarifications state as under:

A. Free samples and gifts:

Samples which are supplied free of cost, without any consideration, do not qualify as „supply“ under GST, except where the activity falls within the ambit of Schedule I of the said Act.

Further, clause (h) of sub-section (5) of section 17 of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of „supply“ on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including 'Buy more, save more' offers:

Discounts offered by the suppliers to customers (including staggered discount under „Buy more, save more“ scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary Discounts

Financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.

There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

[Circular clarifying nature of supply of Priority Sector Lending Certificates \(PSLC\)\[Circular No. 93/12/2019-GST\]](#)

Nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e 01.07.2017 to 27.05.2018 and from 28.05.2018 onwards. However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply.

ORDERS

[Bill of Supply must be issued by a registered person availing the benefit of new scheme and paying GST @ 6%\[Order No. 3/2019 - Central Tax\]](#)

CBIC has issued an order in which it is clarified that any registered person supplying exempted goods or services, paying tax under composition scheme or paying GST @ 6% under notification no 02/2019- Central Tax (Rate) shall issue Bill of Supply instead of Tax Invoice.

LEGAL UPDATES

INDIRECT TAXES

Where Competent Authority for recovery of dues from assessee, a private company, had provisionally attached bank accounts of directors, impugned order was without any authority of law and Competent Authority was directed to release attachment of bank accounts of directors

H.M. Industrial (P.) Ltd. VS Commissioner, CGST and Central Excise[2019]
102 taxmann.com 410 (Gujarat)

By the impugned orders of provisional attachment of the property under section 83 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act"), the respondent has, inter alia, attached the bank accounts of the directors of the petitioner-company. A perusal of the provisions of section 83 of the CGST Act shows that the same empowers the Commissioner, if the circumstances therein are satisfied, to attach provisionally any property, including bank account, belonging to the taxable person, in such manner as may be prescribed. The term "taxable person" has been defined under sub-section (107) of section 2 of the CGST Act to mean a person who is registered or liable to be registered under section 22 or section 24 of that Act. In the present case, it is the petitioner-company which is registered under the provisions of the CGST Act and is, therefore, the taxable person. Under the circumstances, if at all, the provisions of section 83 of the CGST Act could have been invoked against the petitioner herein, however, under no circumstances, the same could have been invoked against the directors of the petitioner-company.

On behalf of the respondents, reliance has been placed upon the provisions of section 89 of the CGST Act to submit that the same permits recovery of the dues of the private company from its directors in case such amount cannot be recovered from the company. In the opinion of this court, reliance placed upon section 89 of the Act is thoroughly misconceived inasmuch the same relates to recovery of any tax, interest or penalty due from a private company in respect of supply of goods or services. Moreover, even if such amount cannot be recovered from the private company, the directors of the company do not ipso facto become liable to pay such amount and it is only if the director fails to prove that nonrecovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, that the same can be invoked. However, in any case, at this stage, section 83 of the Act does not apply to the directors of the private company. Under the circumstances, the impugned orders of attachment, to the extent the same attach the bank accounts of the directors, as set out in the statement at page 8 and 9 of the petition, at serial No. 1, 2, 3, 4, 5, 10 and 11 are concerned, are totally without any authority of law. In these circumstances, the respondents are directed to forthwith release the attachment of the following bank accounts.

Where Competent Authority had detained goods of assessee and vehicle on ground that in E-way bill assessee had shown three invoices, said authority was directed to release goods and vehicle on assessee executing a simple bond

Stove Kraft (P.)Ltd.v.Assistant State Tax Officer[2019] 103 taxmann.com 27 (Kerala)

Petitioner is a dealer. The goods and vehicle have been detained; the e-way bill has been generated, petitioner has shown three invoices. Noting that separate e-way bill will have to be generated to each of the invoices, goods have been detained. It is to be noted that, it is not a case where e-way bill does not mention all the invoices. There may be practical difficulty for the Department in tracking the invoices, when multiple number of invoices mentioned in the e-way bill generated. However the learned is under the view that goods and vehicle shall be released to the petitioner on executing a bond. Taking note of the nature of the issue, it is believed that the goods along with vehicle shall be released to the petitioner on executing simple bond.

*In favour of assessee.



CBDT increases tax free gratuity limit from Rs. 10 lakh to Rs. 20 lakh

The CBDT has increased the maximum amount of gratuity exempt under section 10(10)(iii) from existing Rs. 10 Lakh to Rs. 20 Lakh. Earlier, the Govt. vide notification S.O. 1420 (E) dated 29.03.2018 has increased the limit of amount of gratuity payable to an employee under section 4(3) of the Payment of Gratuity Act, 1972 from Rs. 10 Lakh to Rs. 20 Lakh.

Proposed New Returns in GST

The proposed new returns under GST would begin on pilot basis from 1st April, 2019 and would be mandated across the country from July, 2019.

The new return formats are named **normal, sahaj and sugam**

The taxpayers opting to file quarterly return (Turnover up to Rs. 5 crore) can choose to file any of the quarterly return namely – Sahaj, Sugam or Quarterly (Normal).

COMPLIANCE CALENDAR



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INCOME TAX	
15.03.2019	Form 24G
	Advance Tax
17.03.2019	TDS Certificate under section 194-IA
	TDS Certificate under section 194-IB
31.03.2019	Due date for linking of Aadhaar number with PAN

GOODS & SERVICES TAX	
13.03.2019	Due date for Furnishing return by Input Service Distributors (ISD)-GSTR 6
20.03.2019	Summary of outward taxable supplies and tax payable by Non-Resident taxable person & OIDAR respectively.-GSTR 5/5A
	Simple GSTR return for the month of February, 2018-GST3 3B



COMPANIES ACT 2013

Within 180 Days From The Date Of Incorporation Of The Company	MCA E- Form INC 20A
30 Days From The Date Of Deployment of E-Form on MCA Portal	Form NFRA-1
within 30 days of the form being made available by the MCA	Form MSME -1 a) For Half year period 'April to September' – 31st October b) For half year period 'October to March' – 30th April
30 Days From The Date Of Deployment Of E-Form on MCA Portal	Form BEN – 2
On or before 25.04.2019	Active Form INC-22
Within a period of 180 days from the date of incorporation of the Company	Form INC- 20A

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