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JULY 2019

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INSIDE THE ISSUE

INDIRECT TAXES

● NON-RATE RELATED NOTIFICATIONS

- ✓ Notification No. 26/2019-Central Tax Dated 28th June, 2019
- ✓ Notification No. 27 and 28/2019-Central Tax Dated 28th June, 2019
- ✓ Notification No. 29/2019-Central Tax Dated 28th June, 2019
- ✓ Notification No. 30/2019-Central Tax Dated 28th June, 2019
- ✓ Notification No. 31/2019-Central Tax Dated 28th June, 2019
- ✓ Notification No. 32/2019-Central Tax Dated 28th June, 2019

● CIRCULARS / ORDERS

- ✓ Circular No. 102/21/2019-GST dated 28th June, 2019
- ✓ Circular No. 103/22/2019-GST dated 28th June, 2019
- ✓ Circular No. 104/23/2019-GST dated 28th June, 2019
- ✓ Circular No. 105/24/2019-GST dated 28th June, 2019
- ✓ Order No. 6/2019-Central Tax dated 28.06.2019

● LEGAL UPDATES (INDIRECT TAXES)

- ✓ M/s Bhargava Motors W.P.(C) 1280/2018
- ✓ M/s Sonka Publication (India) Pvt. Ltd. W.P.(C) 10022/2018

FROM THE EDITOR'S DESK



Dear Friends,

On 1st July, 2019, GST celebrated its second 'Happy birthday', although with the dwindling revenue collections even the Government is not very sure as to whether the birthday is really 'Happy' or not. Even for the other stakeholders of GST viz. the assesseees and tax professionals, the ride in first two years has been really bumpy. The assesseees have been saddled with notifications, circulars, orders, conflicting advance rulings, judgments etc. on almost daily basis and reading about GST has become a habit of stakeholders like reading a daily newspaper.

We hope that in times to come this daily newspaper gets transformed at least to a monthly magazine. This is very much required so that the assesseees, trade and industry and the tax professionals can take a legitimate stand on a particular issue.

Any suggestions/feedbacks are heartily invited.

Happy Reading.

VINEET BHATIA
Advocate

NON-RATE RELATED NOTIFICATIONS

[Notification No. 26/2019-Central Tax dated 28th June, 2019:Download Notification Here](#)

The due date for filing of TDS return in FORM GSTR-7 for the period October, 2018 to July, 2019, has been extended till August 31, 2019.

[Notification Nos. 27/2019-Central Tax and 28/2019-Central Tax dated 28th June, 2019:Download Notification Here](#)

A registered person can file a quarterly return in FORM GSTR-1 (for the outward supplies) if his turnover during the immediately preceding year or the current year is up to Rs. 1.5 crores. The due date for filing of return for the second quarter (July to September, 2019) shall be October 31, 2019.

All other registered persons, who have to file monthly return in Form GSTR-1 (if turnover is more than Rs. 1.5 crores), shall file the return for the months of July, 2019, August, 2019 and September, 2019 by 11th day of the next month.

[Notification No. 29/2019-Central Tax dated 28th June, 2019:Download Notification Here](#)

The due date for filing of monthly return in Form GSTR-3B for the months of July, 2019, August, 2019 and September, 2019 shall be 20th day of the next month.

[Notification No. 30/2019-Central Tax dated 28th June, 2019:Download Notification Here](#)

The CBIC has exempted non-resident suppliers supplying Online Information Database Access and Retrieval Services (OIDAR) from a place outside to a person in India, from filing of Annual Return in form GSTR-9 and reconciliation statement in form GSTR-9C.

[Notification No. 31/2019-Central Tax dated 28th June, 2019:Download Notification Here](#)

- a) New taxpayers are required to furnish the details of bank account on the portal within 45 days from the date on which registration is granted or the due date for filing of GSTR-3B for the first month, whichever is earlier [Rule 10A inserted].
- b) GST registration shall be cancelled if new registered supplier does not furnish the details of his bank account as required in Rule 10A referred to above [Rule 21 amended]

- c) For Kerala, all intra-state B2C supply of good or services, the value of supply shall not include the Kerala Flood Cess charged thereon. This shall be effective from August 1, 2019 *[Rule 32A amended]*.
- d) A new proviso has been inserted which requires mandatory Quick Response (QR) code on tax invoice and bill of supply, subject to certain conditions and restrictions, as may be prescribed. The effective date of this Rule is yet to be notified *[Rule 46 and Rule 49 amended]*.
- e) Rules relating to procedure of claiming TDS/TCS deducted has been amended (refer attached notification for detailed changes) *[Rule 66(2), 67(2) and Rule 87(9) amended]*.
- f) Now a registered person can transfer any amount of tax / interest / penalty / fee to any other head in the electronic cash ledger. For this, a new Form GST PMT-09 has been introduced. The effective date of this Rule is yet to be notified *[Rule 87(13) inserted]*.
- g) Retail outlets established in departure area of an international airport have been allowed to refund the GST in aspecified circumstances. In this regard, form GST RFD- 10B has also been introduced. The effective date of this Rule shall be from July 1, 2019 *[Rule 95A inserted]*.
- h) Currently, the validity of an e-way bill can be extended before it gets expired and once it expires it cannot be revived. A *proviso* has been inserted which enables the generator to extend the validity of an e-way bill within 8 hours from time of its expiry *[Rule 138 amended]*.
- i) Composition dealers and suppliers claiming the benefit of 6% presumptive taxation scheme under Notification number 02/2019-Central Tax (Rate), dated 07-03-2019 shall not be allowed to generate e-way bill if return has not been filed for 2 consecutive quarters *[Rule 138E amended]*.

[Notification No. 32/2019-Central Tax dated 28th June, 2019: Download Notification Here](#)

The due date for filing of Form GST ITC-04 for the goods sent to, or received from, a job worker for the period July, 2017 to June, 2019 shall be August 31, 2019.

CIRCULARS / ORDER

Circular No. 102/21/2019-GST dated 28th June, 2019: [Download Circular Here](#)

The CBIC has clarified that any interest (or late fee or penalty) for delayed payment of any consideration charged by the supplier shall be included in the value of supply for the payment of GST. The interest component shall be considered for valuation purpose even if a separate invoice has been issued for extending the credit facility. However, if any third party is involved like any bank or any other person, other than the supplier himself, who extends credit facility, due to which transaction between supplier and recipient is executed then in such case the interest paid by the recipient would not be subject to GST as it gets covered by exemption allowed under Notification No. 12/2017- Central Tax (Rate), dated 28-06-2017.

Circular No. 103/22/2019-GST dated 28th June 2019: [Download Circular Here](#)

The CBIC has issued a clarification regarding the determination of place of supply in the following cases:

- a) **In case of services provided by the Ports:** It has been clarified that services ancillary or relating to the cargo handling shall not be deemed to be related to immovable property and place of supply for such services shall be determined as per Section 12(2) or Sec 13(2).
- b) **Services rendered on unpolished diamonds temporarily imported in India:** In case of cutting or polishing services on unpolished diamonds which are temporarily imported in India and are not put to use in India, It has been clarified that the place of supply shall be location of recipient of services as per Section 13(2) of the IGST Act. . Where location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

Circular No. 104/23/2019-GST dated 28th June 2019: [Download Circular Here](#)

The CBIC has issued a circular to clarify the doubts raised in respect of processing of refund applications submitted by taxpayers in FORM GST RFD-01A which have been electronically transferred to the wrong tax authority. Where reassignment of refund applications to the correct jurisdictional tax authority is not possible on the common portal, the processing of refund claims should not be held up, rather it should be processed by the tax authorities to whom refund applications have been electronically transferred by the common portal.

After processing of refund application, the refund processing authority may inform on the common portal about the incorrect mapping with a request to update it. This will ensure that all the subsequent refund applications are sent to correct jurisdictional tax authority.



Circular No. 105/24/2019-GST dated 28th June 2019: [Download Circular Here](#)

The CBIC has issued clarifications on various doubts relating to treatment of secondary or post-sales discounts under GST. It has been clarified that the treatment of post-sale discount would depend upon the nature of discounts and it is crucial to examine the true nature of discount.

<i>Doubts about inclusion or exclusion</i>	<i>CBIC's Clarification</i>
(a) Whether post-sale discount given by the supplier of goods to the dealer, without any further obligation or action required at the dealer's end, should be excluded from value of supply?	Such discount is related to original supply of goods and it should not be included in the taxable value of supply.
b) Whether additional discount shall be reduced from the value of supply if it is given by the supplier of goods to the dealer as a post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition, etc.?	This will be treated as separate transaction and the discount will be treated as consideration for undertaking such activity. Dealer (supplier of services) would be required to charge applicable GST on the value of such additional discount and the supplier of goods (recipient of services), will be eligible to claim input tax credit.
c) Whether additional discount shall be reduced from the value of supply if it is given by the supplier to dealer to offer special reduced price to customer?	Such additional discount represents the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount is required to be added while determining the value of supply to be made by the dealer to the customer. The customer, if eligible, can claim the ITC benefit of GST paid on such additional discount.
d) Whether ITC shall be reversed in respect of GST paid on the discounts granted by the supplier but not excluded from the value of supply (i.e., commercial / financial credit notes)?	Dealer will not be required to reverse ITC attributable to the tax already paid on such post-sale discount received by him through issuance of financial / commercial credit notes by the supplier of goods.



Order No. 6/2019-Central Tax dated 28.06.2019: [Download Order Here](#)

The due date for filing of first annual return in Form GSTR-9, Form GSTR-9A and reconciliation statement in Form GSTR-9C has been extended from June 30, 2019 to August 31, 2019.

Snapshot

Form No.	Description of Form	July-2019	Aug-2019	Sept-2019
GSTR-1 (Quarterly)	Statement for outward supplies	31-10-2019		
GSTR-1 (Monthly)	Statement for outward supplies	11-08-2019	11-09-2019	11-10-2019
GSTR-3B	Summary Return	20-08-2019	20-09-2019	20-10-2019
GSTR-7	TDS Return (for the period October, 2018 to July, 2019)	31-08-2019		
GST ITC-04	Details of goods exchanged with a job worker (for the period July, 2017 to June, 2019)	31-08-2019		
GSTR-9	Annual Return	31-08-2019		
GSTR-9A	Annual return for composition dealers	31-08-2019		
GSTR-9C	Reconciliation Statement	31-08-2019		

LEGAL UPDATES

TRANSITIONAL CREDITS

GST TRAN-1 DIRECTED TO BE ACCEPTED MANUALLY

M/s BHARGAVA MOTORS, W.P.(C) 1280/2018

The brief facts of the case are that the petitioner was a registered trader and distributor of automobile company, Mahindra & Mahindra Ltd. The petitioner had stock of excisable goods and was entitled to claim credit of eligible duties in respect of stock held as on 30th June, 2017 under Section 140(3) of the CGST Act. The petitioner filed its TRAN-1 claiming the credit of eligible duties but the same was not reflected in his credit ledger. The petitioner wrote certain mails to GST helpdesk but the issue was not resolved.

The petitioner filed the present Writ Petition. During the pendency of the present Writ Petition, the Government issued a Circular No.39/13/2018 dated 03.04.2018 thereby setting an IT Grievance Redressal Committee. The petitioner filed his representation before the said committee but the petitioner's representation was rejected.

The Hon'ble Delhi High Court held:

The GST system is still in a „trial and error phase“ as far as its implementation is concerned. Ever since the date the GSTN became operational, this Court has been approached by dealers facing genuine difficulties in filing returns, claiming input tax credit through the GST portal.

The Court further held:

In the present case also the Court is satisfied that the Petitioner's difficulty in filling up a correct credit amount in the TRAN-1 form is a genuine one which should not preclude him from having his claim examined by the authorities in accordance with law. A direction is accordingly issued to the Respondents to either open the portal so as to enable the Petitioner to again file TRAN-1 electronically or to accept a manually filed TRAN-1 on or before 31st May 2019. The Petitioner's claims will thereafter be processed in accordance with law.

The court also made a general direction to the respondents stating as under:

With a view to ensure that in future such glitches can be overcome, the Court directs the Respondents to consider providing in the software itself a facility of the trader/dealer being able to save onto his/her system the filled up form and also a facility for reviewing the form that has been filled up before its submission. It should also permit the dealer to print out the filled up form which will contain the date/time of its submission online. The Respondents will also consider whether there can be a message that pops up by way of an acknowledgment that the Form with the credit claimed has been correctly uploaded.

The matter was argued by the Editor.

**CLASSIFICATION OF BOOKS FOR YOUNGER STUDENTS WHETHER FALLS UNDER
'PRINTED BOOKS, HSN 4901 OR CLASSIFIABLE AS 'EXERCISE BOOKS, HSN 4820
M/s SONKA PUBLICATION (INDIA) PVT. LTD., W.P.(C) 10022/2018**

The issue involved in the present case was regarding the classification of books published by the petitioner. The issue was whether the books meant for younger students would be classifiable as 'printed books under 'HSN 4901' or as 'exercise books' under 'HSN 4820' of the CGST Act.

The petitioner filed an application before the Authority for Advance Ruling and the Authority for Advance Ruling vide its order dated 6th April, 2018 held that the books in question were 'exercise books' classifiable under 'HSN 4820' and were therefore chargeable @ 5%. The Authority for Advance Ruling held that:-

There is a printed text which the child is to copy by joining dotted text or by writing in the space provided, once or several times in the space provided. Only in very few pages, any printed exercise or questions is given. Hence, in these books, the primary use is writing and printing is incidental. Hence, presence of printed text does not affect their classification under heading 48.20 as exercise books. Further, since, none of the books contain any pages with children's picture, drawing or colouring matter, classification of any of them under heading 49.03 is not possible. Hence the goods are to be correctly classified under HSN 4820.

The petitioner filed a petition challenging the order for Authority for Advance Ruling.

The Hon'ble Delhi High Court vide its order dated 7th May, 2019 reversing the decision of Authority for Advance Ruling has held that the books in question are not 'exercise books' but fall under 'printed books' 'HSN 4901'. The test applied by the court was of functional characteristics of the books. The court also applied the common trade parlance test to differentiate between the 'exercise books' and 'printed books'.

The matter was argued by the Editor.

DISCLAIMER

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