

GOODS & SERVICES TAX (GST)



OTHER INDIRECT TAXES (including legacy issues)



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- Due date for furnishing form ITC-04 is extended for the period July, 2017 to June, 2019.
- Clarification issued regarding GST applicability on additional/penal interest GST.
- Due date for furnishing FORM GSTR 9, FORM 9A and FORM GSTR 9C for the period July to March 2017-18 is extended.

and *more...*

GOODS & SERVICES TAX (GST)

NOTIFICATIONS



- **Notification No. 25/2019- Central Tax dated 21st June, 2019 :**

Extends the date for applicability of the facility of blocking and unblocking of e-way bill, as per the provision of Rule 138E of CGST Rules, 2017 from 21st June, 2019 to 21st August, 2019.

A summarized Rule 138E is reproduced below:

“Notwithstanding anything contained in sub-rule (1) of rule 138, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, who:

(a) being a person paying tax under section 10, has not furnished the returns for two consecutive tax periods; or

(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two months”.

- **Notification No. 26/2019- Central Tax dated 28th June, 2019 :**

Extends the time limit for furnishing the return by a registered person required to deduct tax at source under the provisions of section 51 of the said Act in FORM GSTR-7 of the Central Goods and Services Tax Rules, 2017 under sub-section (3) of section 39 of the said Act read with rule 66 of the Central Goods and Services Tax Rules, 2017 for the months of October, 2018 to July, 2019 till the 31st day of August, 2019.

- **Notification No. 30/2019- Central Tax dated 28th June, 2019:** Provides exemption from furnishing of Annual Return / Reconciliation Statement for suppliers of Online Information Database Access and Retrieval Services (“OIDAR services”).

The Central Government, on the recommendations of the Council, notifies the persons registered under section 24 of the said Act read with rule 14 of the Central Goods and Services Tax Rules, 2017, (hereinafter referred to as “the said rules”), supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person as the class of registered persons who shall follow the special procedure as mentioned below:

1. *The said persons shall not be required to furnish an annual return in FORM GSTR-9 under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules.*
2. *The said persons shall not be required to furnish reconciliation statement in FORM GSTR-9C under sub-section (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules.*

- **Notification No. 31/2019- Central Tax dated 28th June, 2019:**

The Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:- These rules may be called the Central Goods and Services Tax (Fourth Amendment) Rules, 2019.

Save as otherwise provided in these rules, they shall come into force on the date of their publication in the official gazette.

1. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), after rule 10, the following rule shall be inserted, namely: -
 - 10A. Furnishing of Bank Account Details: - After a certificate of registration in FORM GST REG-06 has been made available on the

common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than forty five days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.

2. After rule 32, with effect from the 1st day of July, 2019, the following rule shall be inserted, namely: -
32A. *Value of supply in cases where Kerala Flood Cess is applicable: The value of supply of goods or services or both on which Kerala Flood Cess is levied under clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of section 15 of the Act, but shall not include the said cess.*
3. In rule 46, the following proviso shall be inserted, namely:
“Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code”.
4. In rule 49, the following proviso shall be inserted, namely:
“Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.”
5. A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in **FORM GST PMT-09**.

6. After rule 95, with effect from the 1st day of July, 2019, the following rule shall be inserted, namely:
“95A. Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist:
 - (1) Retail outlet established in departure area of an international airport, beyond the immigration counters, supplying indigenous goods to an outgoing international tourist who is leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.*
 - (2) Retail outlet claiming refund of the taxes paid on his inward supplies, shall furnish the application for refund claim in FORM GST RFD- 10B on a monthly or quarterly basis, as the case may be, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*
 - (3) The self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice shall be submitted along with the refund application.*
 - (4) The refund of tax paid by the said retail outlet shall be available if (a) the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;*
 - (b) the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;*
 - (c) name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and*
 - (d) such other restrictions or conditions, as may be specified, are satisfied.*
 - (5) The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.*

Explanation: For the purposes of this rule, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

7. In rule 129, in sub-rule (6), for the word “three” used in the phrase “shall complete the investigation within a period of three months”, the word “six” shall be substituted.

- **Notification No. 32/2019- Central Tax dated 28th June, 2019:**
Extends the time limit for furnishing the declaration in **FORM GST ITC-04** of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to June, 2019 till the 31st August, 2019.

- **Notification No. 11/2019- Central Tax (Rate) dated 29th June, 2019:**
The Central Government, on the recommendations of the Council, hereby specifies retail outlets established in the departure area of an international airport, beyond the immigration counters, making tax free supply of goods to an outgoing international tourist, as class of persons who shall be entitled to claim refund of applicable central tax paid on inward supply of such goods, subject to the conditions specified in rule 95A of the Central Goods and Services Tax Rules, 2017.

Explanation: For the purposes of this notification, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

This notification shall come into force with effect from the 1st day of July, 2019.

- **Notification No. 11/2019- Integrated Tax (Rate) dated 29th June, 2019:**

The Central Government, on being satisfied that it is necessary in the public interest so to do, and on the recommendations of the Council, hereby exempts any supply of goods by a retail outlet established in the departure area of an international airport, beyond the immigration counters, to an outgoing international tourist, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Services Tax Act, 2017.

Explanation: For the purposes of this notification, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

The notification shall come into force with effect from the 1st day of July, 2019.

CIRCULARS



- **Circular No.102/21/2019-GST dated 28th June,2019 :**
Clarification regarding applicability of GST on additional / penal interest :
 - I. Doubts have been raised regarding the applicability of GST on additional / penal interest on the overdue loan i.e. whether it would be exempt from GST or such penal interest would be treated as consideration for liquidated damages .In order to ensure uniformity in

the implementation of the provisions of the law, the Board, hereby issues the following clarification.

- II. As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the value of supply shall include “interest or late fee or penalty for delayed payment of any consideration for any supply”. Further in terms of Sl. No. 27 of notification No. 12/2017- Central Tax (Rate) dated the 28.06.2017 *“services by way of (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services)”* is exempted. Further, as per clause 2 (zk) of the notification No. 12/2017-Central Tax (Rate) dated the 28th June, 2017, *“‘interest’ means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;”*.
- III. It is further clarified that the transaction of levy of additional / penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”, as this levy of additional / penal interest satisfies the definition of “interest”.
- **Circular No.103/22/2019-GST dated 28th June, 2019:** Clarification regarding determination of place of supply in certain cases.

In order to ensure uniformity in the implementation of the provisions of the law, the Board clarifies the same as below:

S.No.	Issue	Clarification
1.	Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc. Doubts have been raised about determination of place of supply for such services i.e. whether the same would be determined in terms of the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be or the same shall be determined in terms of the provisions contained in sub-section (3) of Section 12 of the IGST Act.	It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.
2.	Doubts have been raised about the place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not	Place of supply in case of performance based services is to be determined as per the provisions contained in clause (a) of sub-section (3) of Section 13 of the IGST Act and generally the place of

	put to any use in India?	services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process. In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act.
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- **Circular No.105/24/2019-GST dated 28th June, 2019:** Clarification on various doubts related to treatment of secondary or post-sales discounts under GST
 - I. Circular No. 92/11/2019-GST dated 7th March, 2019 was issued providing clarification on various doubts related to treatment of sales promotion schemes under GST. Post issuance of the said Circular various representations have

been received from the trade and industry seeking clarifications in respect of tax treatment in cases of secondary discounts or post sales discount. The matter has been examined in order to ensure uniformity in the implementation of the law across the field formations.

- II. For the purpose of value of supply, post sales discounts are governed by the provisions of clause (b) of sub-section (3) of section 15 of the CGST Act. It is crucial to examine the true nature of discount given by the manufacturer or wholesaler, etc. (hereinafter referred to as “the supplier of goods”) to the dealer. It would be important to examine whether the additional discount is given by the supplier of goods in lieu of consideration for any additional activity / promotional campaign to be undertaken by the dealer.
- III. It is clarified that if the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer’s end, then the post sales discount given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject to the fulfilment of provisions of sub-section (3) of section 15 of the CGST Act. However, if the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the “ITC”) of the GST so charged by the dealer.

- IV. It is further clarified that if the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer, under section 15 of the CGST Act. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer in view of second proviso to sub-section (2) of section 16 of the CGST Act.
- V. There may be cases where post-sales discount granted by the supplier of goods is not permitted to be excluded from the value of supply in the hands of the said supplier not being in accordance with the provisions contained in sub-section (3) of section 15 of CGST Act. Doubts have been raised as to whether the dealer will be eligible to take ITC of the original amount of tax paid by the supplier of goods or only to the extent of tax payable on value net of amount for which such financial / commercial credit notes have been received by him. It is clarified that the 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 in view of the provisions contained in second proviso to sub-rule (1) of rule 37 of the CGST Rules read with second proviso to sub-section (2) of section 16 of the CGST Act as long as the dealer pays the value of the supply as reduced after adjusting the amount of post-sale discount in terms of financial / commercial credit notes received by him from the supplier of goods plus the amount of original tax charged by the supplier.

ORDER



- **Order No. 6/2019 –Central Tax- dated 28th June, 2019:**

Furnishing of the annual return electronically for every financial year as referred to in sub-section (1) of section 44 of the said Act, certain technical problems are being faced by the taxpayers as a result whereof, the said annual return for the period from the 1st July, 2017 to the 31st March, 2018 could not be furnished by the registered persons, and because of that, certain difficulties have arisen in giving effect to the provisions of the said section.

The Central Government, on recommendations of the Council extends the due date for furnishing FORM GSTR-9, FORM GSTR-9A and FORM GSTR-9C under section 44 of the Central Goods and Services Tax Act, 2017 from **30th June, 2019 to 31st August, 2019**.

RECENT MAJOR DEVELOPMENTS IN GST



- Recently, the issue of levibility of IGST on ocean freight for CIF- based imports came before the Authority of Advance Ruling of Madhya Pradesh, wherein it was held that importer is liable to pay IGST on ocean freight under Reverse Charge Mechanism (“RCM”). [E-DP Marketing Private Limited (2019 (7) TMI 44)].

- The Hon'ble AAR, Maharashtra held that club and its members are two distinct persons and the amount collected as membership subscription and admission fees from members are liable to GST as the supply of services. No ITC is available on the tax paid on banquet and catering services for holding members meetings and various events, as outward supply is not of the same category.

HIGHLIGHTS OF GST COLLECTION.

The GST collection fell below the Rs 1-lakh-crore mark in the month of June 2019. The total revenue collection under the indirect tax regime for past month amounted to Rs 99,939 crore.

Out of the GST sops for June, CGST is Rs 18,366 crore, SGST is Rs 25,343 crore, IGST is Rs 47,772 crore (including Rs 21,980 crore collected on imports) and Cess is Rs 8,457 crore (including Rs 876 crore collected on imports). The total number of GSTR-3B Returns filed for the month of May up to 30th June, 2019 was 74.38 lakh.

The GST collection figures have dipped below the Rs 1 lakh-crore mark for the first time in the current fiscal. The indirect tax revenue for the month of March 2019 was Rs 1, 06,577 crore, Rs 1,13,865 crore in April 2019, and Rs 100,289 crore in May 2019. The trend had raised hopes that Rs 1 lakh crore in GST collections might become the norm soon.

The GST revenue in June 2019 was 4.52 per cent higher than Rs 95,610 crore recorded in year-ago period during June, 2018. Moreover, the GST revenue in June, 2019 amounts 1.86 per cent higher than the monthly average of GST revenue in FY 2018-19 at Rs 98,114 crore.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact our Indirect Taxation Team.

CONTACT DETAILS:

Head Office

75/7 Rajpur Road, Dehradun

T +91.135.2743283, 2747084, 2742026

F +91.135.2740186

E info@vkalra.com

W www.vkalra.com

Branch Office

80/28 Malviya Nagar, New Delhi

E info@vkalra.com

W www.vkalra.com

For any further assistance contact our team
at kmt@vkalra.com

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