

15th March 2019

GST UPDATE - 2/2019

Gist of Notifications/Circulars/Orders from 16.01.2019 to 14.03.2019

Notifications

Central Tax & Integrated Tax Notifications

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| <p>Notification No. 02/2019 – Central Tax & 01/2019 – Integrated Tax dated 29.01.2019</p> | <p>Appoints 01.02.2019 as effective date for certain provisions of CGST (Amendment) Act 2018 & IGST (Amendment) Act 2018 to come into force. (Detail article is under preparation)</p> |
| <p>Notification No. 03/2019 – Central Tax dated 29.01.2019</p> | <p>CGST (Amendment) rules 2019</p> <ol style="list-style-type: none"> 1. Rule 11 substituted to remove concept of 'Business Vertical' but now separate registration can be obtained for multiple places of business in a state. 2. Rule 41A inserted to enable transfer of ITC to newly registered premises as separate registration 3. Rule 53 amended to remove concept of one-to-one invoice-credit note concept and allow a single/multiple credit/debit notes in a financial year/certain period. 4. Rule 96A amended to allow receipt of Indian rupees in certain cases allowed by RBI for export eligibility. |
| <p>Notification No. 04/2019 – Central Tax dated 29.01.2019</p> | <p>New designation of Joint Commissioner (Appeals) created</p> |
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| <p>Notification No. 05/2019 – Central Tax dated 29.01.2019</p> | <p>Amendment to Notification No. 8/2017 Central Tax dated 27.06.2017</p> <p>Amended to refer rates to Rule 7 of CGST Rules,2017 instead of rates prescribed by Notification and only consider limit to opt for composition levy</p> |
| <p>Notification No. 06/2019 – Central Tax & 3/2019 – Integrated Tax dated 29.01.2019</p> | <p>Amendment to Notification No. 65/2017 – Central Tax dated 15.11.2017 & 10/2017 – Integrated Tax dated 13.10.2017</p> <p>Some states have opted to come out of ‘Special Category states’ as per CGST Act, 2017 and as a result the clause (iii) in explanation to section 22 of CGST Act 2017. Since reference is also present in this notification, the same is amended to refer to the amended explanation. This notification pertains to exemption service providers who are providing services through e-commerce operators other than 9(5) cases from registration requirement if aggregate turnover is less than Rs. 20 Lakhs in a financial year.</p> |
| <p>Notification No. 07/2019 – Central Tax dated 31.01.2019</p> | <p>Extension of due date for GSTR 7 (TDS Return) for the months of October 2018 to December 2018 to 28.02.2019</p> |
| <p>Notification No. 08/2019 – Central Tax dated 08.02.2019</p> | <p>Extension of due date for GSTR 7 (TDS Return) for the month of January 2019 too to 28.02.2019</p> |
| <p>Notification No. 09/2019 – Central Tax dated 20.02.2019</p> | <p>Extension of due date for GSTR 3B for the month of January 2019 to 22.02.2019 and to 28.02.2019 in Jammu & Kashmir.</p> |

Notification No. 10/2019 –
Central Tax dated
07.03.2019

Exempting certain category of persons from registration

With Effect from **01.04.2019**

Persons engaged in **exclusive supply of GOODS**

Whose aggregate turnover in financial year **DOES NOT EXCEED Rs. 40 Lakhs**

EXCEPT

a. Persons required to compulsory register as per Sec. 24 of CGST Act 2017

b. Persons engaged in supplies of

| HSN | Description |
|----------|--|
| 21050000 | Ice cream and other edible ice, whether or not containing cocoa. |
| 21069020 | Pan Masala |
| 24 | All Goods i.e. Tobacco and manufactured tobacco substitutes |

c. Persons engaged in intra-state supplies in states of

- Arunachal Pradesh,
- Manipur,
- Meghalaya,
- Mizoram,
- Nagaland,
- Puducherry,
- Sikkim,
- Telangana,
- Tripura,
- Uttarakhand

| | d. Persons who opts for voluntary registration or persons who continue their registration | | | | | | |
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| Notification No. 11/2019 & 12/2019 – Central Tax dated 07.03.2019 | <p>To notify due date for filing GSTR 1 for period April 2019 to June 2019</p> <table border="1"> <thead> <tr> <th>Category</th> <th>Due date</th> </tr> </thead> <tbody> <tr> <td>Aggregate Turnover < Rs. 1.5 Crores and opted to file quarterly GSTR 1 April- June 2019</td> <td>31.07.2019</td> </tr> <tr> <td>Aggregate Turnover > Rs. 1.5 Crores April to June 2019</td> <td>11th of succeeding month</td> </tr> </tbody> </table> | Category | Due date | Aggregate Turnover < Rs. 1.5 Crores and opted to file quarterly GSTR 1 April- June 2019 | 31.07.2019 | Aggregate Turnover > Rs. 1.5 Crores April to June 2019 | 11th of succeeding month |
| Category | Due date | | | | | | |
| Aggregate Turnover < Rs. 1.5 Crores and opted to file quarterly GSTR 1 April- June 2019 | 31.07.2019 | | | | | | |
| Aggregate Turnover > Rs. 1.5 Crores April to June 2019 | 11th of succeeding month | | | | | | |
| Notification No. 13/2019 – Central Tax dated 07.03.2019 | Extending GSTR 3B for months of April to June 2019 and prescribing due date as 20th of succeeding month | | | | | | |
| Notification No. 14/2019 – Central Tax dated 07.03.2019 | <p>Increase in limit of turnover to opt for composition levy</p> <p>With effect from <u>01.04.2019</u></p> <p>Limit of aggregate turnover in preceding financial year to opt for composition levy increased from existing Rs. 1 Crores to Rs. 1.5 Crores.</p> <p>Rs. 75 Lakhs in states of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand.</p> <p>Manufacturer of following items CANNOT opt for composition levy</p> | | | | | | |

| HSN | Description |
|----------|--|
| 21050000 | Ice cream and other edible ice, whether or not containing cocoa. |
| 21069020 | Pan Masala |
| 24 | All Goods i.e. Tobacco and manufactured tobacco substitutes |

Central Tax (Rate) Notifications

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| Notification No. 01/2019 – Central Tax (Rate) & 01/2019 – Integrated Tax (Rate) dated 29.01.2019 | <p>Rescinding Notification No. 8/2017 Central Tax (Rate) dated 28.06.2017 & 32/2017 Integrated Tax (Rate) dated 13.10.2017</p> <p>Section 9(4) of CGST Act 2017 was amended vide CGST Amendment Act, 2018 to give power to central government to notify certain class of registered persons to pay tax under RCM when certain category of goods/services are received from unregistered persons. Earlier, it applies to ALL registered persons but now limited to certain notified class and certain notified category of goods/services.</p> <p>So, notification prescribing limit of Rs. 5,000 per day which is suspended till 30.09.2019 has been rescinded since it has no relevance.</p> <p>However, the notification specifying class of registered persons and category of goods/services to which 9(4) applies is not yet notified till date.</p> |
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Notification No. 02/2019 –
Central Tax (Rate) dated
07.03.2019

Prescribes new rate on intra state supply of goods/services/both

With effect from 01.04.2019,
Prescribes rate of 6% (3% CGST + 3% SGST) on first supplies of goods or services or both upto an aggregate turnover of Rs. 50 lakh made on or after the 1st day of April in any financial year, by a registered person subject to conditions.

Conditions:-

1. Aggregate turnover in the preceding financial year is Rs. 50 Lakhs and below
2. Not engaged in any supply NOT leviable to tax
3. Not engaged in inter-state supply
4. Neither Casual taxable person nor non-resident taxable person
5. Not engaged in supplies through e-com operator who is required to collect TCS
6. Not engaged in supplies of following goods:-

| HSN | Description |
|----------|--|
| 21050000 | Ice cream and other edible ice, whether or not containing cocoa. |
| 21069020 | Pan Masala |
| 24 | All Goods i.e. Tobacco and manufactured tobacco substitutes |

7. Not collect tax nor entitled to ITC
8. Issue Bill of Supply
9. Mention the following words at the top of the bill

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| | <p>of supply, namely: - 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.</p> <p>10. Pay tax @ 3% notwithstanding any notification under sec. 9 (1) & 11 of CGST Act, 2017. (Does this mean that tax is to be paid even on exempted supplies???)</p> <p>11. RCM u/s 9(3) and 9(4) applies.</p> <p>Note: In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of three percent under this notification, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.</p> |
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Circulars

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| <p>Circular No. 87/06/2019 – GST dated 02.01.2019</p> | <p>Clarification regarding Sec. 140(1) of CGST Act 2017</p> <p>No transition of credit of cesses, including cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975, would be allowed in terms of Explanation 3 to section 140, inserted vide sub-section (d) of section 28 of CGST Amendment Act, 2018 which shall become effective from the date the same is notified giving it retrospective effect</p> |
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| <p>Circular No. 88/07/2019 – GST dated 02.01.2019</p> | <p>Changes in Circulars issued earlier under the CGST Act, 2017</p> <p>Circular No. 8/8/2017 dated 04.10.2017 – To clarify that in certain cases, even proceeds in Indian Rupees too is allowed to qualify to be ‘Export’</p> <p>Circular No. 38/12/2018 dated 26.03.2018 – To amend provisions relating to Job work</p> <p>Circular No. 41/15/2018 dated 13.04.2018 – To align with amendment in Sec. 130 increasing time limit to reply to SCN in 14 days instead of earlier 7 days.</p> <p>Circular No. 58/32/2018 dated 04.09.2018 – To streamline the modes of recovery through Form DRC 03.</p> <p>Circular No. 69/43/2018 dated 26.10.2018 – To add provisions relating to Suspension of registration</p> |
| <p>Circular No. 89/08/2019 – GST dated 18.02.2019</p> | <p>Mentioning details of inter-State supplies made to unregistered persons in Table 3.2 of FORM GSTR-3B and Table 7B of FORM GSTR-1</p> <p>Non-mentioning of the said information results in –</p> <p>(i) non-apportionment of the due amount of IGST to the State where such supply takes place; and</p> <p>(ii) a mis-match in the quantum of goods or services or both actually supplied in a State and the amount of integrated tax apportioned between the Centre and that State, and consequent non-compliance of Sec. 17 (2) of section 17 of IGST Act, 2017.</p> |
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| <p>Circular No. 90/09/2019 – GST dated 18.02.2019</p> | <p>Compliance of rule 46(n) of the CGST Rules, 2017 while issuing invoices in case of inter- State supply</p> <p>It is instructed that all registered persons making supply of goods or services or both in the course of inter-State trade or commerce shall specify the place of supply along with the name of the State in the tax invoice.</p> <p>Contravention of any of the provisions of the Act or the rules made there under attracts penal action under the provisions of Sec. 122 or 125 of the CGST Act.</p> |
| <p>Circular No. 91/10/2019 – GST dated 18.02.2019</p> | <p>Clarification regarding tax payment made for supply of warehoused goods while being deposited in a customs bonded warehouse for the period July, 2017 to March, 2018</p> <p>During the period from 01.07.2017 to 31.03.2018, the common portal did not have the facility to enable the taxpayer to report payment of IGST, in the details required to be submitted in FORM GSTR-1, for such supplies especially where the supplier and the recipient were located in the same State or Union territory. Hence taxpayers making such supplies have reported such supplies as intra-State supplies and discharged CGST+SGST instead of IGST accordingly.</p> <p>In view of revenue neutral position of such tax payment and that facility to correctly report the nature of transaction in FORM GSTR-1 furnished on the common portal was not available during the period July, 2017 to March, 2018, it has been decided that, as a one-time exception.</p> |

Circular No. 92/11/2019 –
GST dated 07.03.2019

Clarification on various doubts related to treatment of sales promotion schemes under GST

Free samples and gifts –

- The Goods/services/both which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the said Act).
- It is also clarified that ITC 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.

Buy one get one free offer –

- It may appear at first glance that in case of offers like “Buy One, Get One Free”, one item is being “supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply.
- 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.

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| | <p><u>Discounts including ‘Buy more, save more’ offers -</u></p> <ul style="list-style-type: none"> • Discounts including ‘Buy more, save more’ offers - It is clarified that 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 Sec. 15 (3) 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 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/services/both on such discounts. <p><u>Secondary Discounts –</u></p> <ul style="list-style-type: none"> • Value of supply shall not include any discount by way of issuance of financial credit note or by any other means, except in cases where the provisions contained in section 15 (3) (b) of CGST Act, 2017 are satisfied. • There is no impact on availability or otherwise of ITC in the hands of supplier in this case. |
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| <p>Circular No. 92/12/2019 – GST dated 08.03.2019</p> | <p>Nature of Supply of Priority Sector Lending Certificates (PSLC)</p> <p>Whether IGST or CGST/ SGST is payable for trading of PSLC by the banks on e-Kuber portal of RBI?</p> <table border="1" data-bbox="639 488 1538 696"> <thead> <tr> <th data-bbox="639 488 1083 555">Nature of Charge</th> <th data-bbox="1083 488 1538 555">Applicable date</th> </tr> </thead> <tbody> <tr> <td data-bbox="639 555 1083 622">Forward Charge</td> <td data-bbox="1083 555 1538 622">01.07.2018 to 27.05.2018</td> </tr> <tr> <td data-bbox="639 622 1083 696">Reverse Charge</td> <td data-bbox="1083 622 1538 696">From 28.05.2018</td> </tr> </tbody> </table> <p>It is further clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce.</p> <p>However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST, such banks for payment already made, shall not be required to pay IGST towards such supply.</p> | Nature of Charge | Applicable date | Forward Charge | 01.07.2018 to 27.05.2018 | Reverse Charge | From 28.05.2018 |
|--|--|------------------|-----------------|----------------|--------------------------|----------------|-----------------|
| Nature of Charge | Applicable date | | | | | | |
| Forward Charge | 01.07.2018 to 27.05.2018 | | | | | | |
| Reverse Charge | From 28.05.2018 | | | | | | |

Removal of Difficulty Order

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| <p>Removal of Difficulty Order No. 1/2019-Central Tax dated 08.03.2019</p> | <p>To Clarify that Interest will NOT be part of Turnover for calculation to opt for Composition levy</p> <p>It is hereby clarified that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account –</p> <p>(i) for determining the eligibility for composition scheme under second proviso to Sec 10 (1);</p> <p>(ii) in computing aggregate turnover in order to determine eligibility for composition scheme.</p> |
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| Removal of Difficulty Order No. 2/2019-Central Tax dated 01.02.2019 | To extend due date of filing GSTR 8 (Return by Input Service Distributor-ISD) for the period July 2017 to December 2018 to 07.02.2019 |
| Removal of Difficulty Order No. 3/2019-Central Tax dated 08.03.2019 | To allow Person paying tax @ 6% to issue 'Bill of Supply' It is hereby clarified that provisions of Sec. 31 (3) (c) of the CGST Act shall apply to a person paying tax under Notification No. 2/2019- Central Tax (Rate) dated 07.03.2019. |

Orders

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| Order No. 1/2019-GST dated 31.01.2019 | Commissioner hereby extends the period for submitting the declaration in FORM GST TRAN-1 till 31st March, 2019, for the class of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council. |
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For any further clarifications on the subject, feel free to write us @ bcoakp@gmail.com.