



# Recent Development in GST Law

(including changes in Finance Bill 2020)

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# Significant GST Proposals on Budget

- ▶ Inclusion of “Ladakh” in the definition of Union Territory. “Dadra and Nagar Haweli and Daman and Diu” to be treated as a single UT in view of “Dadra and Nagar Haweli and Daman and Diu (Merger of Union Territories) Act, 2019.
- ▶ Notification No.62/2019-CT dtd.26-11-2019 Special procedure prescribed for persons whose principal place of business or place of business lies in the erstwhile State of Jammu and Kashmir till 30-10-2019; and lies in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31-10-2019 onwards

# Significant GST Proposals on Budget

- ▶ Composition Scheme u/s 10(1) is applicable to following persons having turnover not exceeding 1.5 Crores.
  - ▶ Manufacturer
  - ▶ persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II
  - ▶ other suppliers
- ▶ The scheme is not applicable to persons engaged in the supply of services, except (b) as mentioned above. The amendment is proposed to include following categories of persons to be ineligible for the scheme
  - ▶ persons providing supply of services not leviable to tax under GST Act
  - ▶ Inter-State outward supply of services
  - ▶ Outward supply of services through an e-commerce operator.

# Significant GST Proposals on Budget

- ▶ As per section 16(4) of the CGST Act, there is a time limit for the availment of input tax credit. This time limit is linked to the date of invoice in respect of which the ITC is availed. It's proposed that, for the purpose of determining the said time limit in case of debit notes, the date of such debit notes and not the date of invoice relating to such debit note is to be considered.

# Significant GST Proposals on Budget

- ▶ The provisions regarding the surrender of GST registration contained Section 29 are also proposed to be extended to a registered person who had obtained such registration voluntarily u/s 25(3). Prior to amendment such option was not available to them.
- ▶ Section 30 provides for revocation of cancellation of registration order only if application for revocation is made by the applicant within a period of 30 days from the date of cancellation order. It's now proposed to empower the Additional Commissioner or the Joint Commissioner to extend the said period up-to 60 days and to empower the Commissioner to extend the said period by more 90 days from the date of cancellation order.

# Significant GST Proposals on Budget

- ▶ Section 51(4) required a person deducting tax at source to issue a TDS certificate within 5 days of crediting the amount so deducted to the Government. This provision has now been deleted

# Significant GST Proposals on Budget

- ▶ As per Section 122 following are regarded as “offences” punishable under the Act
  - ▶ supply of any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply
  - ▶ issue of any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder
  - ▶ taking or utilising input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder
  - ▶ taking or distributing input tax credit in contravention of section 20, or the rules made thereunder;
- ▶ Section 122 is amended to provide that, any person who retains the benefit of aforesaid transactions and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on

# Significant GST Proposals on Budget

- ▶ Section 132 provides for punishment of offences. The said section is amended to extend the penal consequences also to person/s who cause to commit such offences and retain the benefits arising out of such offences
- ▶ Section 140 is amended retrospectively (i.e. from 01.07.2017) to prescribe the manner and time limit for taking a transitional credit.



# Significant GST Proposals on Budget

- ▶ Section 168 is amended to give powers under section 66 (5) and section second proviso to section 143(1) to the jurisdictional commissioner (instead of Commissioner or Joint Secretary posted in the Board).
  - ▶ Section 66(5) deals with power to determination of expenses of the examination and audit of records including the remuneration of such chartered accountant or cost accountant in case of a Special Audit.
  - ▶ Second proviso to Section 143(1) empowers the commissioner to extend the period of 'one year' or 'three year' for bringing to goods back from the job-worker to the principal for a further period not exceeding one year and two years respectively

# Significant GST Proposals on Budget

- ▶ Time limit for issue of removal of difficulty order under Section 172 is extended from 3 years to 5 years.
- ▶ It has been clarified by incorporating a retrospective amendment that Para 4 of schedule II only deals with transfer of business assets for a consideration

# Retrospective Exemptions/ Reduced Rate of Supply of goods.

Particulars	Period *	Rate of Tax
supply of fishmeal (falling under heading 2301)	01-07-2017 to 30-09-2019	Nil
supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436)	01-07-2017 to 31-12-2018  *No refund shall be made of all such tax which has been collected	12%

# Significant GST Proposals on Budget

- ▶ Notification No.3/2019 – C.C. (Rate) dtd.30-09-2019 notified Tobacco and manufactured tobacco substitutes falling under Chapter 24 as the category of goods u/s 54(3) of the CGST Act in respect of which no refund of unutilised input tax credit of compensation cess shall be allowed, where the credit has accumulated on account of rate of compensation cess on inputs being higher than the rate of compensation cess on the output supplies of such goods. It has been clarified that, the said notification shall have a retrospective effect from 01-07-2017 and consequently, no refund on account of inverted duty structure would be admissible even for a period prior to 30-09-2019.

# E – Invoicing

Sr.N o.	Notification No.	Particulars of Amendment
1	68/2019- Central Tax ,dt. 13-12- 2019	<p>Rule 48 of the CGST Act deals with the manner of issuing of Invoice. The said rule is amended to provide that certain notified class of registered persons shall be required to issue GST invoice containing particulars in Form INV-01 after <b>obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal.</b></p> <p>The scheme of INV-01 is provided in Notification No.2/2020 - CT dtd.1-01-2020.</p>

# E – Invoicing

Sr.N o.	Notification No.	Particulars of Amendment
2	70/2019- Central Tax ,dt. 13-12- 2019	<p>The Central Government has notified the following categories of registered persons who are mandatory required to issue e-invoice</p> <ul style="list-style-type: none"><li>- Registered person, whose aggregate turnover in a financial year exceeds <b>one hundred crore rupees.</b></li></ul> <p>This provision is to become effective from 01-04-2020.</p>

# E – Invoicing

Sr.No.	Notification No.	Particulars of Amendment
3	69/2019- Central Tax ,dt. 13-12- 2019	Following websites are notified as common portal for the purpose of e-invoicing (i) <a href="http://www.einvoice1.gst.gov.in">www.einvoice1.gst.gov.in</a> ; (ii) <a href="http://www.einvoice2.gst.gov.in">www.einvoice2.gst.gov.in</a> ; (iii) <a href="http://www.einvoice3.gst.gov.in">www.einvoice3.gst.gov.in</a> ; (iv) <a href="http://www.einvoice4.gst.gov.in">www.einvoice4.gst.gov.in</a> ; (v) <a href="http://www.einvoice5.gst.gov.in">www.einvoice5.gst.gov.in</a> ; (vi) <a href="http://www.einvoice6.gst.gov.in">www.einvoice6.gst.gov.in</a> ; (vii) <a href="http://www.einvoice7.gst.gov.in">www.einvoice7.gst.gov.in</a> ; (viii) <a href="http://www.einvoice8.gst.gov.in">www.einvoice8.gst.gov.in</a> ; (ix) <a href="http://www.einvoice9.gst.gov.in">www.einvoice9.gst.gov.in</a> ; (x) <a href="http://www.einvoice10.gst.gov.in">www.einvoice10.gst.gov.in</a>

# QR Code

Sr.No.	Notification No.	Particulars of Amendment
1	71/2019-Central Tax ,dt. 13-12-2019	Rule 46 of the Central Goods and Services Tax Rules was amended by Notification No.31/2019-CT dtd.28-06-2019 requiring the tax invoice to have Quick Response (QR) code. This provision shall become application from 01-04-2020.



# QR Code

Sr.No.	Notification No.	Particulars of Amendment
1	72/2019- Central Tax ,dt. 13-12- 2019	In following cases QR code would be mandatory <ul style="list-style-type: none"> <li>- Supplier is a registered person, whose aggregate turnover in a financial year exceeds <b>five hundred crore rupees AND</b></li> <li>- Supply is made to an unregistered person <b>(B2C Invoice)</b></li> </ul>
2		[ It's also permissible to make available to the recipient Dynamic Quick Response (QR) code through a digital display provided the B2C invoice issued by the supplier contains a cross-reference of the payment using such a Dynamic Quick Response (QR) code ]

## Amendment restricting availment of Input Tax Credit (Notification No.75/2019-CT) dtd.26-12-2019

- ▶ Rule 36(4) of the CGST Rules, provided that the Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37. The said percentage of 20% has not been further reduced to 10%.

## Amendment restricting availment of Input Tax Credit (Notification No.75/2019-CT) dtd.26-12-2019

- ▶ Rule 86A is inserted empowering the officer not below the rank of an Assistant Commissioner and authorised by the Commissioner to not allow debit of certain amounts equivalent to ITC in electronic credit ledger, in certain circumstances, for discharge of any liability under section 49 or for claim of any refund of any unutilised amount. The circumstances are given below:
  - ▶ the credit of input tax has been availed on the strength of tax invoices or debit notes or any other prescribed document etc. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained or without receipt of goods or services or both.
  - ▶ the credit of input tax has been availed on the strength of tax invoices or debit notes or any other prescribed document etc. in respect of any supply, the tax charged in respect of which has not been paid to the Government
  - ▶ the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained
  - ▶ the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36.

## Amendment restricting availment of Input Tax Credit (Notification No.75/2019-CT) dtd.26-12-2019

- ▶ The power can be exercised only if the officer has reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible due to aforesaid circumstances and he has to record his reasons in writing.
- ▶ Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.

# Restriction on E-Way Bill

- ▶ w.e.f. 11-01-2020, Rule 138E , no person ( whether as consignor, consignee or a transporter) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of any person who has not furnished the statement of outward supplies for any two months or quarters, as the case may be.

# Change in Due Dates for GSTR-3B in Staggered Manner (Jan 2020 to Mar 2020)

taxpayers having an aggregate turnover of <b>up to rupees five Crore in the previous financial year whose principal place of business is in the States of</b>	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana. Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	22-02-2020 22-03-2020 22-04-2020
	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	24-02-2020 24-03-2020 24-04-2020
Others	All States and Uts	20-02-2020 20-03-2020 20-04-2-2020

# Amendment in RCM Notification 31-12-2019

Service	Provider of Service	Recipient of Service
Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 12 per cent. to the service recipient	Any body corporate located in the taxable territory.

# Recent Judicial Pronouncements

- ▶ State of West Bengal vs Calcutta Club Ltd [ 3-10-2019] [ SC]
- ▶ GE T & D India Limited vs DCCE, LTU, Chennai – 2020 – VIL – 39 MAD-ST [ 07-11-2019][ Mad HC]
- ▶ Synergy Fertichem (P.) Ltd vs State of Gujarat [2019] 112 taxmann.com 370 [ 23-12-2019] [Gujarat HC]
- ▶ Mohit Minerals Pvt. Ltd vs UOI [2020 – TIOL-164-HC-AHM-GST] [ 23-01-2020] [ GUJ HC]