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GST: Business processes for returns proposed by EC



The Empowered Committee (EC) of State Finance Ministers had constituted the Joint Committee on Business Processes for Goods and Services Tax (GST) to make suitable recommendations to the EC regarding registration, return, payments

and refunds under the GST regime.

While the three reports were released on 6 October 2015, the fourth report on return has been put in the public domain on 20 October 2015. The report elucidates salient aspects pertaining to filing of GST returns which includes taxpayer's obligations, periodicity, process involved in filing etc. The format of return to be filed by various taxpayers has been provided by way of annexures. Separate returns have been prescribed amongst others for outward supplies, inward supplies and a consolidated return based on the two returns.

The report has been released with a view to engage with the stakeholders and to invite comments from the public at large. Comments / feedback on the draft business reports can be submitted through the "MyGov.in" portal by 6 November 2015.

During the EC's meeting held on 10 March 2014 it was decided that a Joint Committee is to be constituted to look into the reports of Sub-Group I on business processes for GST and make suitable recommendations to the EC for registration and returns. The reports of the Joint Committee pertaining to business process of registration, payment and refund were released in the public domain on 6 October 2015. Now, the report on GST return has been released. The report lists out various facets pertaining to filing of GST return.

Key features

There will be common e-return for CGST, SGST, IGST and Additional Tax. Every registered person will be required to file a return for the prescribed tax period, even if there is no business activity (i.e. Nil Return).

UN agencies will have unique GST ID and will file return for the month (in simpler form) during which they make purchases. They would not be required to file regular return.

Government entities / PSUs , etc. not dealing in GST supplies or persons exclusively dealing in exempted / Nil rated / non-GST goods or services would neither be required to obtain registration nor required to file returns under the GST law. However, State tax authorities may assign Departmental ID to such government departments / PSUs / other persons and will ask the suppliers to quote this ID in the supply invoices for all inter-State purchases being made to them.

Common periodicity of returns for a class of taxpayers to be enforced. Different frequency for filing of returns for different class of taxpayers, after payment of due tax, either prior to or at the time of filing return.

Returns can be filed without payment of self-assessed tax as per the return but such return would be treated as an invalid return and would not be taken into consideration for matching of invoices and for inter-governmental fund settlement among States and the Centre.

The periodicity of return for different categories of taxpayers is as follows

Return form	For	Dur Dates
GSTR – 1	Outward Supplies made	10 th of next month
GSTR – 2	Inward Supplies received	15 th of next month
GSTR – 3	Monthly return	20 th of next month
GSTR – 4	Quarterly return for compounding tax payer	18 th of month next to quarter
GSTR – 5	Periodic return by Non-resident Foreign Taxpayer	Last day of registration
GSTR – 6	Return for ISD	15 th of next month
GSTR – 7	Return for TDS	10 th of next month
GSTR – 8	Annual return	31 st Dec of next FY

Normal taxpayers (including casual taxpayers) will have to file GSTR-1, GSTR-2 and GSTR-3 for each registration. Normal taxpayers with multiple registrations within a State would have to file GSTR-1, GSTR-2 and GSTR-3 for each of the registrations separately.

Casual/Non-resident taxpayers (other than foreigners) will have to file GSTR-1, GSTR-2 and GSTR-3 for the period for which they have obtained registration.

Filing of returns would only be through online mode. Facility of offline generation and preparation of returns will also be available. The returns prepared in the offline mode will have to be uploaded.

Monthly Return

There would be separate returns for the outward supplies, inward supplies and a consolidated return based on these two returns. Besides that, there would be separate returns for ISD, non-resident taxpayers (foreigners) and tax deductors.

Key components of GSTR-1

Invoice-level supply information pertaining to the tax period separately for goods and services has to be submitted as follows:

For all B2B supplies – invoice level specified details will be uploaded. For all inter-state B2C supplies – invoice level details to be uploaded for invoices whose value is more than INR 250000. For invoices below this value, state-wise summary of supply statement shall be filed.

Following parameters with respect to HSN code for goods and accounting codes for services will apply for submitting the information in return relating to invoice level information.

HSN code (4 digits) for goods and accounting code for services will be mandatory initially for all taxpayers with turnover in the preceding financial year above INR 5 crores. HSN codes (8 digits) and accounting codes for services will be mandatory in case of exports and imports.

Separate table for submitting details of revision in relation to outward supply invoices pertaining to previous tax periods. Separate table for effecting modifications/correcting errors in the returns submitted earlier.

Key components of GSTR-2

The information in GSTR-1 shall be auto-populated in concerned tables in GSTR-2. It can be modified by the taxpayer while filing GSTR-2. The details of inwards supplies would be auto-populated in the Input Tax Credit (ITC) ledger on submission of return.

GST law should provide that ITC with respect to capital goods will be allowed over a period of 2 years in equal instalments. Further GST law should make appropriate provisions for availment of ITC in case of inputs received in one lot or in multiple lots.

Separate table for submitting details in relation to ITC received on an invoice on which partial credit has been availed earlier. Separate table for ISD credit and TDS credit received by taxpayer.

Key components of GSTR-3

It would capture the aggregate level outward and inward supply information which will be auto populated through GSTR-1 and GSTR-2. Information about ITC ledger, cash ledger and liability ledger would be updated in real time on an activity in connection with these ledgers by the taxpayer.

Details of payment of tax under various tax heads of CGST, SGST, IGST and Additional tax separately would be populated from the debit entry in credit/cash ledger. GST law may have provision for maintaining 4 head-wise account for CGST, SGST, IGST and Additional tax and at associated minor heads for interest, penalty, fee etc.

Taxpayer will have the option of claiming refund of excess payment through the return for which appropriate field will be provided in the return form.

Details of ITC balance (CGST, SGST and IGST) at the end of the tax period will be auto-populated in the ITC ledger irrespective of mode of filing return. The return would have a field to enable the tax payer to claim the refund or to carry forward the ITC balance (CGST, SGST and IGST). GST law may provide that the refund will be processed quarterly.

It will be auto-populated through GSTR-1 (of suppliers), own GSTR-2, ISD return, TDS return of deductor, own ITC ledger, own cash ledger and own tax liability ledger.

Further, separate returns have been prescribed for compounding taxpayers, non-resident foreign taxpayers, ISD, and TDS. Steps for return filing have been prescribed as follows:

Upload final GSTR-1 return form either directly through data entry at the GST Common Portal or by uploading the return through Apps by 10th day of succeeding month. The increase / decrease (in supply invoices) would be allowed, only on the basis of the details uploaded by the counter-party purchaser in GSTR-2, up to 17th of the month.

GST Common Portal Network (GSTN) will auto-draft the provisional GSTR-2 of taxpayer based on supply invoice details reported by the supplier on a near real-time basis.

Purchasing taxpayer will accept / reject / modify such an auto-drafted provisional GSTR-2. Taxpayer will have the option to download his provisional purchase statement from the Portal or through Apps using Application Programming Interface (APIs) and update / modify it offline.

Purchasing taxpayer can also add additional purchase invoice details in GSTR-2 which have not been uploaded by the supplier, provided he is in possession of valid invoice and has actually received such supplies.

Taxpayer will have the option to reconcile inward supplies with their suppliers. All the invoices will be auto-populated in the ITC ledger of the taxpayer. The taxpayer is however, required to indicate the eligibility/partial eligibility of ITC.

Taxpayer will finalize their GSTR-1, GSTR-2 through online facility at Common Portal or GSTN compliant offline facility in their accounting applications.

Taxpayer will then pay the amount as shown in the draft GSTR-3 return generated automatically at the portal. Taxpayer will debit the ITC ledger and cash ledger and mention the debit entry No. in the GSTR-3 return and would submit the same.

Final acknowledgement of receipt of return will be generated after submission and validation of data is completed.

Invoice related Information

The invoice level information which will be captured in the returns has been given for invoices pertaining to the following:

- B2B transactions (Intra-State, Inter-State and supplies to UN organizations / embassies) (both for supply and purchase transactions).
- B2C transactions (Inter-State B2C supplies for consumer on record) (only supply transactions)
- B2C transactions (Intra-State B2C supplies) (only supply transactions)
- Export and deemed export supply (only supply transactions)

- Exempted including Nil rated supply (both for supply and purchase transactions)
- Bills of Entry relating to import (only purchase transactions)
- Credit / Debit note (for sale-purchase return, post-sale discount)
- Post sales discount
- Advances received against a supply to be made in future
- TDS
- ISD

Apart from the basic details such GSTIN, invoice number and date etc., details such as HSN code for goods and accounting code for services, place of supply also have to be given for B2B supplies and inter-state B2C supplies.

Filing of tax returns

A registered taxpayer shall file the return at the GST Common Portal either himself or through his authorised representative using the user ID and password allotted. Taxpayer may prepare and submit his returns himself or can use services of Tax Return Preparer (TRP) or facilitation centre (FC). The process for filing return through TRP / FC has been given in detail in the report.

TRPs will have to be approved by the tax administration and allotted a unique ID. The registration of TRP/FC will be done by CBEC/respective State authorities and the registration data will be shared with GSTN.

Taxpayer can sign the return using one-time Digital Signature Certificate (DSC). This will do away with the requirement of print-out of acknowledgement of return.

The common portal will display the electronic form to be used for filing the return. The portal will provide a form generation utility which can be

downloaded by the taxpayer for preparation of the return offline and for conducting the preliminary arithmetic checks.

Taxpayer is not required to submit any other document along with the return. The documents as required for scrutiny or audit shall be made available by the taxpayer to the audit party deputed by the CBEC / State tax authorities / CAG.

The common portal will maintain and display the ledger of the taxpayer providing information about the tax deposited, ITC availed, ITC utilized, tax liability created, balance ITC carried forward, tax payments made by debiting the ledgers under respective major tax heads, refund granted and balance in respective cash ledger and credit ledger carried forward.

The information of interest on delayed payments, penalty for legal defaults, tax demand as per adjudication / appellate orders, etc. would also be provided. The ledger will also give the status of the tax dues or excess payment on any given date.

A return related liability means the tax liability for the transactions (including credit/debit notes) of the return period and the additional liability arising out of any ITC reversal or late inclusion of the supply in the return period.

Arrears pertaining to audit / reassessment / enforcement outcomes would be handled separately, and not mixed with the return related liabilities and payments.

Revision of return

It is proposed that there would be no revision of returns. All unreported invoices of previous tax period would be reflected in the return for the month in which they are proposed to be included. Interest, if applicable will be auto-

populated. All under-reported invoice and ITC revision will have to be corrected using credit / debit note. These credit / debit notes would be reflected in the return for the month in which such adjustment is carried out.

The credit / debit note will have provision to record original invoice, date etc. to enable the system to link the same with the original invoice and also to calculate interest, if applicable.

There would be separate tables in the returns for reflecting those adjustments for which credit / debit notes are not required to be issued. Interest, if applicable will be auto populated.

Non-filing and late filing of return

A defaulter list will be generated by the IT system, in case of failure by the taxpayer to submit periodic return. GST common portal can auto-generate and send notice to all non-filers in the form of an email and SMS.

GST Law may also provide for imposition of automatic late fees for non-filers and late filers which can also be in-built in the notices. It may also provide for adequate penal provisions for non-filing of return.

Short filing of return

E-return should be allowed to be uploaded, even in case of short payment for the limited purpose of having the information about self-assessed tax liability even though not paid. However, it will be treated as an invalid return.

Any invalid return (including the one not supported by full payment) will merely be recorded with unique transaction ID, but not accepted in the system.

GST Law may provide adequate penal provisions for short filing of return. Return for casual / non-resident taxpayers. Casual / non-resident taxpayers should file GSTR-1, GSTR-2 and GSTR-3 within a period of 7 days after the date of expiry of registration.

In case registration period is for more than one month, monthly return would be filed and thereafter return for remaining period would be filed within a period of 7 days as stated earlier.

Annual Return (GSTR-8)

All the normal taxpayers would be required to submit annual return. This is intended to provide 360 degree view about the activities of the taxpayer.

It is a detailed return and captures details of all income and expenditure of the taxpayer and regroups them in accordance with the monthly returns. This return will provide the opportunity to make good for any short reporting of activities undertaken supply wise. It is to be submitted along with the audited copies of the Annual Accounts and should be filed by 31 December following the end of the financial year for which it is filed.

A separate reconciliation statement, duly certified by a Chartered Accountant, will have to be filed by those taxpayers who are required to get their accounts audited under section 44AB of Income Tax Act 1961.

Consolidated statement of purchases and supplies based on monthly returns filed by the taxpayer can be made available to taxpayers by GSTN common portal as a facilitation measure for enabling him to prepare annual return.

Processing of return

Once the GST return has been uploaded, the portal will undertake the following activities:

Acknowledge the receipt of the return and generate acknowledgement number. Forward return to tax authorities of Central and appropriate State Government through the established IT interface.

The ITC claim will be confirmed to purchasing taxpayer in case of matched invoices after 20th of the month succeeding the month of the tax period month provided counterparty supplying taxpayer has submitted the valid return (and paid self-assessed tax as per return). Communicate to the taxpayers about the macro-results of the matching.

Auto-populate the ITC reversals due to mismatching of invoices in the taxpayer's account in the return for the 2nd month after filing of return for a particular month.

Aggregate cross-credit utilization of IGST and SGST for each State and generate settlement instructions based on IGST model and as finalized by the Payments Committee.

Comments

The release of the fourth report relating to business processes in GST, which provides an insight on the proposed processes involved in filing of return, would enable the industry to be well prepared and geared up for a smooth migration to GST.

The compliance burden may increase substantially on account of filing of monthly returns and submission of invoice level details for B2B and inter-state B2C supplies. While it is proposed that the input tax credit balance will be auto-populated at the end of the tax period in the ITC ledger, the issue relating to treatment of credit balance during the transition will need to be addressed

CENTRAL EXCISE

Case laws

- In CCE v Hitkari Fibres Ltd. (2015 (324) ELT 24), the Supreme Court held that additional amount received after clearance of goods should not be added to the transaction value unless undervaluation had been proved by the department.
- In Purolator India Ltd v CCE (2015 (323) ELT 227), the Supreme Court held that cash and volume discount were allowable as deduction when the same was stipulated in the sale agreement between the assessee and its buyers and known at, or prior to, clearance of goods.
- In LakhanpalLtd vCCE (2015 (323) ELT 645), the Supreme Court that the royalty paid to the buyer for use of brand name was not an additional consideration, as the appellant had paid the buyer, not the other way round. (The appellant was making approximately 50% of its sales to other buyers—other than the brand owner.)
- In Cadbury India Ltd. vCCE (2015 (323) ELT 606), the Delhi Tribunal held that cheque discounting charges collected to cover delay in realisation of payment by up-country buyers was nothing but interest on receivable and that the same was not includible in the assessable value.
- In Castrol India Ltd v CCE (2015-TIOL-2194-CESTAT-KOL), the Kolkata Tribunal held that the pro rata value attributable to the bonus quantity of lubricant was not includible in the assessable value when the bonus/ combo pack had already suffered duty under MRP-based assessment.
- In EsselPropackLtd vCCE (2015-TIOL-2173-CESTAT-MUM), the Mumbai Tribunal held that cost of secondary packing not ordinarily used, and given at specific request of customer, was not includible in the assessable value of goods.
- In CCE vUttamGalva Steels Ltd (2015-TIOL-2242-CESTAT-MUM), the Mumbai Tribunal held that difference between sales tax collected from the customers and sales tax paid to the state authorities at Net Present Value of deferred taxes under Package Incentive Scheme could not be treated as an additional consideration, since payment of sales tax at NPV (which was less than originally payable), could not make the amount actually payable at a different time and place of removal, particularly when under Sales Tax Law such a payment was considered as deemed payment of the sales tax payable.CENVAT/ MODVAT
- In CCE vCESTAT (2015 (323) ELT 290), the Madras High Court held that there was no requirement to reverse CENVAT credit on inputs and capital goods under rule 3(5) on leasing out of factory to another company since there was no physical removal of such goods
- In National Engineering Industries Ltd vCCE (2015-TIOL-1976-CESTAT-DEL), the Delhi Tribunal held that omission by Head Office to register as an Input Service Distributor was a procedural lapse, and therefore, CENVAT credit was admissible on invoice issued in name of the Head Office
- In SabcInnovative Plastics PvtLtd vCCE (2015-TIOL-2014-CESTAT-AHM), the Ahmedabad Tribunal held that CENVAT Credit was admissible on inputs and capital goods used exclusively for R & D and Quality Control Laboratory, since such R&D activities were essential for manufacture of finished goods
- In Bell Ceramics Ltd vCCE (2015-TIOL-2227-CESTAT-AHM), the Ahmedabad Tribunal held that CENVAT credit was admissible on pipes

used for transportation of natural gas from supply point of GAIL to the appellant's factory for further use in the manufacture of finished goods.

- In SPL Ltd vCCE (2015-TIOL2092-CESTAT-DEL), the Delhi Tribunal held that there was no requirement to reverse CENVAT credit on inputs, inputs contained in work in progress/ finished goods lying in stock on the date of availing full exemption under notification no. 6/2002-CE dated 1.3.2002

SERVICE TAX

Case law

- In the case of Future Gaming & Hotel Services P Ltd & AnrvUnion of India & Ors(TS-564-HC-2015(SIK)-ST), the Sikkim High Court held that the activity of buying and selling lottery tickets did not amount to provision of services to the State, and hence, there was no service tax liability, even after the amendment of explanation 2 to Section 65B(44) in June 2015.
- In the case of Reliance InfratelLimited vCommissioner of Central Excise (TS-569-CESTAT-2015-ST), the CESTAT held that even in case of an associated enterprise transaction, for an entry to be included in the 'gross amount charged', it must be a payment in the nature of a consideration for a service. In the present case, the entry for lease rent equalisation was only an accounting entry in the balance sheet to comply with the accounting standard 19; it was not an income for the purpose of Income Tax Act also. Accordingly, such entries made in books could not be treated as consideration subject to service tax.
- In the case of Commissioner of Service Tax v Vijay Television P Ltd (TS-565-HC-2015(MAD)), the Madras High Court held that the findings of facts by the Tribunal, which is the final fact-finding authority, could not

be overturned by the High Court merely based on a plea made in appeal, without any grounds being advanced by the Department to substantiate the same.

Notifications & Circulars

- Circular No. 354/98/2015-TRU dated 5 October 2015

The CBEC has clarified in the context of Goods Transport Agency (GTA) services that if ancillary services are provided in the course of transportation of goods by road, and the charges for such services are included in the invoice issued by the GTA, such services would form a part of the GTA services and the corresponding abatement shall be allowed. Further, even in cases where GTA undertakes to deliver goods within stipulated time, it would be considered as GTA services till the time the entire transport is by road and the GTA issues a consignment not

- Notification No. 19/2015 Service Tax dated 14 October 2015

Service tax exemption has been granted to an Indian Bank or other entity acting as an agent to money transfer service operators in relation to remittance of foreign currency into India for the period 1st July, 2012 to 13th October, 2014. This exemption is granted by exercising the powers under section 11C of the Central Excise Act, 1944, which is made applicable to service tax vide section 83 of the Finance Act, 1994.

- Notification No. 20/2015-Service Tax dated 21 October 2015

Service Tax exemption has been granted to services provided by business facilitator / business correspondent to a banking company in rural area, restricted to a Basic Savings Bank Deposit Account covered by Pradhan Mantri

Jan Dhan Yojana in rural area branches by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, and Aadhar seeding. The services provided by any person as intermediary to a business facilitator/business correspondent with respect to the above-mentioned services provided by the business facilitator/ business correspondent have also been exempted from service tax.

VAT/SALES TAX

Notifications and circulars

Andhra Pradesh

- Effective 22nd September 2015, entry for “Khandasari Sugar”, which is exempt from levy of VAT, has been substituted by “Sugar including Khandasari Sugar” (Notification No. G.O.MS.No. 356 Dated 22nd September, 2015)

Chattisgarh

- Due date for completion for assessment proceedings, which were required to be completed by 31st December 2015, has been extended to 30th June 2016. (Notification No. F1036/2015/CT/V (64). Dated 30th September, 2015)

Delhi

- Due date for submission of information in Form DP-1 has been extended from 30 September 2015 to 31 October 2015. (Notification No.F.3 (352)/ Policy/ VAT/ 2013/ 818829 dated 30th September, 2015)

- Due date for filing online returns in Forms EC-II and EC-III for the quarter ending June 2015 has been extended to 15th October 2015. (Notification No . F.3 (515)/ Policy/VAT/2015/805816 dated 29th September, 2015)

Goa

- Due date for filing of return for the quarter ending September 2015 has been extended to 29th November 2015. (Order No. CCT/ 122/ 1112/ 2903 7th October, 2015)

Himachal Pradesh

- Effective 1st October 2015, entry pertaining to ‘Bitumen & Coal tar’ has been substituted with ‘Bitumen & Coal tar of all kinds’ which is liable to VAT at 5%. (Notification No. EXNF (10)20/ 2014 dated 1st October, 2015)

Rajasthan

- Effective 24th September 2015, works contracts executed in Special Economic Zone are exempt from payment of tax up to 31st March 2016; where such Special Economic Zone is established in backward areas as specified by the State Government, such exemption shall be available up to 23rd August 2017. (Notification No. F.12 (43) FD/Tax/05 Pt 88 dated 24th September, 2015)

Uttar Pradesh

- Effective 15th October 2015, transport memo in Form XXI is required to be issued and accompanied during transportation of edible oil of weight exceeding nine tons. (Notification No. K.A. NI21422/XI9 (125)/09 U.P. Act 52008 Order (145) 2015 dated 14th October, 2015)
- Effective 15th October 2015, VAT rate on Cigarette/ Cigar, PanMasala without tobacco content and Khaini, Zarda, Surti and other manufactured tobacco and tobacco products excluding Bidi has been increased to 40%. (Notification No. K.A. NI 21423/XI9 (1)/2008 U.P. Act 52008 Order (142) 2015 dated 14th October, 2015)

Case law

- The Karnataka High Court, in the case of State of Karnataka v IBM India P Ltd (2015-TIOL-2298-HC-KAR-VAT), held that in the course of ERP implementation, if any software came into existence, no VAT was payable on such software as the title of software rested with the client, and not the . The HC observed that such software could not be held to be 'goods available in the market'.
- The Karnataka High Court, in the case of ZylogSystems P Ltd v Addl. Commissioner of Commercial Tax, Bangalore (TS-549-HC-2015-KAR-VAT), held that smart cards designed specifically for RTO as part of providing computerized service delivery system were not liable to VAT. The HC observed that supply of smart cards was for providing service, and there was no element of sale involved therein
- The Delhi High Court, in the case of JagritiPlastics Ltd v Commissioner of Trade & Taxes (2015-TIOL-2332-HC-DEL-VAT), held that a taxpayer was eligible for credit of Value Added Tax paid on purchase of Duty Entitlement Passbook ('DEPB') scrip against output Delhi VAT liability on sale of imported goods in the State of Delhi.

ENTRY TAX

Notifications and circulars

Uttar Pradesh

- Effective 15th October 2015, entry for 'coal' has been substituted by 'coal including coke in all its forms' liable to entry tax at the rate of 2%. (Notification No. KA. NI. 21498/ XI9 (1)/ 2008 U.P. Act 302007 Order (144) 2015 dated 14th October, 2015)

Uttarakhand

- Effective 12th October 2015, 'Raw Petha and Petha Sweet' are liable to entry tax at the rate of 5% on the value of goods. (Notification No. 904/ 2015/ 24 (120)/ XXVII (8)/ 2010 dated 12th October, 2015)

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