



Inside this edition

- CBIC makes Aadhar mandatory for GST Registration and Physical Verification for Place of Business by Officer.
- CBIC notified Proviso to Sec. 50(1)- Interest in GST to be levied on Net tax Liability.
- Institutions providing coaching, accommodation to CA/CS students do not exempt from GST.
- CBIC issued a Press Release on new functionality of Form GSTR-2B for the month of July, 2020.

NOTIFICATIONS



CBIC makes Aadhar Mandatory for GST Registration and Physical Verification for Place of Business by Officer w.e.f. 21st August, 2020

1. Aadhar Authentication process has been introduced, for the persons applying for GST registration as Normal Taxpayer/ Composition/ Casual Taxable Person/ Input Service Distributor (ISD)/ SEZ Developer/ SEZ Unit etc., in *Form GST REG 01*.
2. Under this, Individuals, Authorized signatory of all types of businesses, Managing and Authorized partners of a partnership firm and Karta of a Hindu undivided family, applying for new registration, can opt to undergo e-KYC authentication of their Aadhar number.
3. Applicants, who, either do not provide Aadhaar, while applying for new registration or whose Aadhar authentication fails in validation, would be subjected to site verification by the tax department. However, Tax authority based on the documents produced can grant registration.
4. Timelines for grant of registration are:
 - In case of successful authentication of Aadhar, registration will be deemed approved within 03 working days
 - If Aadhar authentication is not opted for or if authentication fails in validation and no SCN is issued within 21 days by tax official, registration will be deemed approved
 - Tax Officer can issue SCN within the period specified for grant of

registration, like in cases of successful Aadhar authentication i.e. 3 working days, or in cases when taxpayer do not opt to provide Aadhar or when Aadhar authentication fails i.e. 21 working days. Applicants can submit their reply within 07 working days from issue of SCN.

5. Important points while opting for Aadhar authentication is as follows:

- Once registration application is submitted, an authentication link will be shared on GST registered mobile numbers and email ids mentioned in the GST application.
- On clicking the verification link, a window for Aadhaar Authentication will open where they have entered Aadhaar Number and the OTP received by them on the mobile number linked with Aadhar.
- Taxpayer need to complete Aadhar authentication of all Promoters/ Partners/ Authorized Signatories/ Karta etc. as mentioned in the application to avail this option.
- Applicant can access the link again for authentication by navigating to *My Saved Applications > Aadhaar Authentication Status > RESEND VERIFICATION LINK*.
- Persons already registered on GST portal are not required to undergo Aadhar authentication at this stage.
- Persons who are not resident /citizen of India are exempted from the Aadhaar authentication process.

Source: Notification No. 62/2020-Central Tax, dated 20th August, 2020

CBIC notified Proviso to Section 50(1) – Interest in GST to be levied on Net Tax Liability w.e.f. 1st September, 2020

The CBIC has notified that from 1st September 2020, interest for delayed GST payment shall be calculated on the net tax liability. Henceforth, the base value for interest computation shall be the amount debited from the electronic cash ledger.

Source: Notification No. 63/2020-Central Tax, dated 25th August, 2020

CIRCULARS



Compulsory quoting of DIN on any communications to taxpayers by Kerala SGST Department.

The Kerala Government vide *Circular No. 08/2020 dated August 04, 2020*, which directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer or by any persons employed in the implementation of the Kerala Goods and Services Tax Act without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication.

Further, the DIN is a mandatory requirement, in exceptional circumstances after recording the reason in writing in the concerned

file and communication expressly stating that it has been issued without an autogenerated DIN. The exigent situation in which a communication may be issued without the electronically generated DIN are as follows: -

- When there are technical difficulties in generating the electronic DIN, or
- When communication regarding investigation/inquiry, verification etc. is required to be issued at short notice or in urgent situations and the authorized officer is outside the office in the discharge of his official duties.

Furthermore, if in case any communication is issued without a DIN, it is treated as invalid and shall be deemed to have never been issued and shall be regularized within 15 working days of its issuance, by:

- Obtaining the post-facto approval of the immediate superior officer as regards the justification of issuing the communication without the electronically generated DIN;
- Mandatorily electronically generating the DIN after post facto approval; and
- Printing the electronically generated Pro-forma bearing the DIN and filing it in the concerned file.

DIN (Document Identification Number) is a unique number generated digitally in an alphanumeric code. The taxpayers can verify the authenticity and genuineness of the document received by searching DIN on the departmental website. The DIN contains 19 characters. Structure of DIN is as below;

DIN3205202000000011

DIN- Stands for type
DIN 32-state code
05-current Month
2020-current year
00000011-Running serial number

DIN Verification by taxpayers:

- The facility to verify the DIN is available in the departmental website <http://www.keralataxes.gov.in/>.
- On clicking the link for DIN verification provided on the website, the following window will be displayed.
- The taxpayers shall enter Document Identification Number, Document date, and Captcha in the concerned fields. Then click “View Details”.
- The details will be displayed as below and the taxpayer can ensure the authenticity of the document.

Source : Circular No. 08/2020 dated 4th August, 2020

ADVANCE RULING



Leasehold-right assignment by corporate debtor attracts GST at 18%.

Issue: Whether leasehold-right assignment by a corporate debtor attracts GST?

Held: The AAR held that activity of assignment of asset leasehold factory unit with car parking space leased by West Bengal Development Corporation (sub-lessor to corporate debtor) is a service taxable as ‘Other Miscellaneous Service’ and therefore GST to be levied at 18%.

It is observed that the sub-lessor has allowed possession of the demised premises for the manufacture of garments and textiles. The West Bengal Development Corporation has no title or ownership, which is central to sale of any immovable property within the meaning Transfer of Property Act, 1882.

The West Bengal Authority for Advance Ruling (AAR) has said that leasehold-right assignment by a corporate debtor attracts 18 % GST.

Source: AR No. 05/WBAAR/2020-21 dated 10th August, 2020

Institute providing coaching, accommodations to CA/CS students do not exempt from GST.

Issue: Whether an institute imparting education to students for obtaining qualifications like CA, CS are covered under the definition of “education institutions” as per GST law and hence, liable to GST?

Held: The AAR held that applicant is not approved by the Institute of Chartered Accountants of India/Institute of Cost Accountants of India/Universities to conduct coaching/training of students as per the syllabus prescribed by them to obtain qualifications granted by the said institution. The institute imparts education to students to facilitate them in obtaining qualifications like CA, Cost Accountancy,

CS, Certified Management Accountant, Certified Public Accountant, Association of Chartered Certified Accountant.

It said the coaching services provided by the applicant to its students along with the hostel facility qualifies as a composite supply and the tax liability on the composite supply shall be classified as "commercial training and coaching services".

In its ruling, the AAR said, "The applicant is not covered under the definition of "educational institution" and hence the services provided by the applicant is not exempted from GST".

Source: AR No. KER/76/2019 dated 20th August, 2020

JUDGEMENTS



Supply of Services by "intermediary" outside India is not an export and should be taxed at 18%

Facts

Whether supply of services by intermediaries outside India is an export supply and thus not liable to IGST?

Decision of the Hon'ble Gujarat High Court

- The person who is intermediary cannot be considered as exporter of services because he is only a broker who arranges and facilitate the supply of goods or services or both.

- Further, the place of supply in case of intermediary to be the location of supply of service and such intermediary service therefore, would be out of the purview of IGST.

- There is no distinction between the intermediary services provided by a person in India or outside India.

- Only because, the invoices are raised on the person outside India with regard to the commission and foreign exchange is received in India, it would not qualify to be export of services.

- Therefore, the same is liable to IGST at 18%

Source: Material Recycling Association of India v. Union of India

Levy of Entertainment Tax post GST authorized under Law.

Facts

Whether the collection of entertainment tax made by the Respondent from the Petitioner is without authority of law and should be refunded?

Decision of the Hon'ble Madras High Court

- The power is conferred on the Respondent under Section 118 of the Puducherry Municipalities Act to collect various taxes has not been totally taken away or subsumed under the GST Act, 2017.

- Even after introduction of the GST Act, 2017 what was omitted from the purview of the Respondent is only a tax on advertisements other than advertisements published in the newspapers and not in

respect of other taxes such as property tax, professional tax, duty on certain transfer of immovable property in the form of additional stamp duty and the "Tax on Entertainment". Therefore, it is very clear that the powers of the Respondent to collect the tax on entertainment, is retained, even after introduction of the GST Act, 2017.

- Furthermore, in view of the fact that the Petitioner has already collected the entertainment tax from the Cinema viewers and thus, it is impossible to return the same to such viewers in the event of order for refund.

PRESS RELEASE



No recoveries shall be made for the past period by the Central and State Tax administration w.r.t. Interest on delayed payment of GST vide N/N. 63/2020.

The Central Board of Indirect Taxes & Customs (CBIC) clarified that the *Notification No. 63/2020-Central Tax* dated 25th August, 2020 relating to interest on delayed payment of GST has been issued prospectively due to certain technical limitations. However, it has assured that no recoveries shall be made for the past period as well by the Central and State tax administration in accordance with the decision taken in the 39th Meeting of GST Council. This will ensure full relief to the taxpayers as decided by the GST Council. CBIC explanation came in response to an assortment of comments in the social media with respect to Notification dated 25th August 2020 regarding charging of interest on delayed payment of GST on net

liability (the tax liability discharged in cash) w.e.f. 1st September 2020.

CBIC issued a Press Release on new functionality available in Form GSTR-2A w.r.t Import Data

Two new tables have been inserted in GSTR-2A for displaying details of the import of goods from overseas and inward supplies made from SEZ units/SEZ developers. Taxpayers can now view their bill of entries data which is received by the GST System (GSTN) from ICEGATE System (Customs). The present data upload has been done on a trial basis to give a feel of the functionality and to get feedback from the taxpayers on the same.

Currently, the system is displaying data up to 6th August 2020. Further, taxpayers may note that the system currently does not contain import information for a bill of entries filed at non-computerized ports (non-EDI ports) and imports made through courier services/post office. This will be made available shortly.

CBIC issued a Press Release on new functionality of Form GSTR-2B for the month of July, 2020

The GST Council, in its 39th meeting held on 14 March 2020, had recommended to adopt and implement the incremental approach of linking the present system of filing of GSTR-3B and GSTR-1 and other significant changes like enhancements in GSTR-2A and its linking to

GSTR-3B. One such enhancement that the Council recommended was the introduction of an auto-drafted input tax credit (ITC) statement which would aid in assisting/determining the input tax credit that is available for every taxpayer.

Form GSTR-2B is going to be such an auto-drafted ITC statement which will be generated for every registered person on the basis of the information furnished by his suppliers in their respective GSTR-1, 5 (non-resident taxable person) and 6 (input service distributor). It is a static statement and will be made available for each month, on the 12th day of the succeeding month. It is expected that GSTR-2B will help in reduction in time taken for preparing a return, minimizing errors, assist reconciliation & simplify compliance relating to filing of returns.

Key features in GSTR-2B which would assist taxpayers in return filing are as under:

- i. It contains information on the import of goods from the ICEGATE system including inward supplies of goods received from Special Economic Zones Units/Developers. This is not available with the release of GSTR-2B for the month of July and will be made available shortly.
- ii. A summary statement that shows all the ITC available and non-available under each section. The advisory given against each section clarifies the action to be taken by the taxpayers in their respective section of GSTR-3B;
- iii. Document-level details of all invoices, credit notes; debit notes etc. are also provided both for viewing and download;

- GSTR-2B for the month of July 2020 has been made available on the common portal on a trial basis.
- Since this is the first time that the statement is being introduced, taxpayers are advised to refer to GSTR-2B for the month of July 2020 only for feedback purposes.
- All taxpayers are requested to go through their GSTR-2B for July 2020 and after comparing the same with the credit availed by them in July 2020, provide feedback (if any) on any aspect of GSTR-2B by raising a ticket on the self-service portal.
- All taxpayers are advised to view the detailed advisory relating to GSTR-2B on the common portal before using the statement.

CUSTOMS



CBIC laid down certain conditions to avail the benefit of deferred payment of Customs Import Duty to 'Authorized Public Undertaking' (APU)

The CBIC vide *Circular No. 37/2020 – Customs dated August 19, 2020*, held that to avail the facility of deferred payment of Customs import duty shall be available to Public Undertakings of Central and/or State Government which satisfy the following conditions: -

- Must be a Government company as defined in the Companies Act, 2013 or a statutory Corporation, a department or an autonomous body owned and/or controlled by the Central Government and/or State Government.

- Must possess a valid Importer-Exporter Code (IEC).
- Must be recommended for availing the said facility by an officer not below the rank of the Deputy Secretary to the Government of India or an officer of equivalent rank in the State Government.
- Must undertake to comply with the provisions of the Deferred Payment of Import Duty Rules, 2016.
- Must adhere to legal compliance requirements as per Section 3.2 of revised AEO programme as per *Circular No.33/2016-Customs*, dated 22nd July 2016, as follows:

1. There should be no show cause notice issued to them during last three financial years involving fraud, forgery, outright smuggling, clandestine removal of excisable goods or cases where Service Tax/GST has been collected from customers but not deposited to the Government.

2. There should be no case wherein prosecution has been launched or is being contemplated against the applicant or its senior management.

3. If the ratio of disputed duty demanded or drawback demanded or sought to be denied, in all the show cause notices issued under the Customs Act, 1962 [other than those mentioned in Para 3(v) (a) and 3(v)(b)] during the last three financial years, to the total duty paid and drawback claimed during the said period is more than 10%, a review would be taken of the nature of cases and decision would be taken on issue or continuance of AEO status by AEO Programme Manager.

Further, in order to avail the facility of deferred payment of Customs import duty, eligible Public Undertaking shall apply to the Principal Commissioner/Commissioner, Directorate of International Customs (DIC), CBIC in the form as per Annexure-I (Application for Approval as Authorised Public Undertaking), the Principal Commissioner/Commissioner, DIC, CBIC shall approve the applicant as an 'Authorized Public Undertaking' eligible for availing the benefit of deferred payment of Customs import duty.

Further, the facility shall be available for 2 years later on extendable for 2 years at a time. At the time of granting approval, the Principal Commissioner/Commissioner, DIC, CBIC shall update the details in the Customs Automated System to enable the facility of deferred payment of duty. No further action will be required by the APU in order to avail the facility.

The Principal Commissioner/Commissioner, DIC, CBIC, the nodal person appointed/authorized by the APU shall obtain ICEGATE login following the procedure laid down in Advisory on www.icegate.gov.in.

The due dates for making the deferred payment of Customs import duty are specified in rule 5 of the Deferred Payment of Import Duty Rules, 2016, are reproduced for reference as follows:

1. For goods corresponding to Bill of Entry returned for payment from 1st day to 15th day of any month, the duty shall be paid by the 16th day of that month;

2. For goods corresponding to Bill of Entry returned for payment from 16th day till the last day of any month other than March the duty shall be paid by the 1st day of the following month; and

3. For goods corresponding to Bill of Entry returned for payment from 16th day till the 31st day of March, the duty shall be paid by the 31st March.

The Principal Commissioner/Commissioner of Customs may monitor the same for imports pertaining to his jurisdiction and ensure timely payment of the Customs import duty as per the said Rules. Instances of non-payment may be brought to the notice of the Principal Commissioner/Commissioner, DIC, CBIC may revoke such approval granted, if the APU becomes ineligible for the facility of deferred payment of Customs import duty at any point in time.

Source: Circular No. 37/2020 - Customs dated 19th August, 2020

GST REVENUE COLLECTION

The gross GST revenue collected in the month of August, 2020 is Rs. 86,449 crores of which CGST is Rs. 15,906 crores, SGST is Rs. 21,064 crores, IGST is Rs. 42,264 crores (including Rs. 19,179 crores collected on import of goods) and Cess is Rs.7,215 crore (including Rs. 673 crores collected on import of goods).

The government has settled Rs. 18,216 crores to CGST and Rs. 14,650 crores to SGST from IGST as regular settlement. The total revenue earned by Central Government and the State Governments

after regular settlement in the month of August, 2020 is Rs. 34,122 crores for CGST and Rs. 35,714 crores for the SGST.

The revenues for the month are 88% of the GST revenues in the same month last year. During the month, the revenues from import of goods were 77% and the revenues from domestic transaction (including import of services) were 92% of the revenues from these sources during the same month last year. It may also be noted that the taxpayers with turnover less than Rs. 5 crores continue to enjoy relaxation in filing of returns till September.

Source: pib.gov.in

LET'S TALK

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

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