

VOL 3: FEBRUARY 2020

TAXWEEKLY

A Weekly magazine of recent
updates in Tax regime.

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Budget 2020 Highlights on Goods and Service Tax

Bill seeks to give retrospective effect (with effect from 1st day of July, 2017) to the notification in which CBIC disallowed refund of compensation cess in case of inverted duty structure for tobacco and manufactured tobacco substitutes.

(Similar in IGST Act, UTGST Act) Bill seeks to provide retrospective exemption from central tax on supply of fishmeal, during the period from the 1st day of July, 2017 up to 30th day of September, 2019 (both days inclusive)

Bill seeks to retrospectively levy central tax at the reduced rate of six per cent. on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436, during the period from the 1st day of July, 2017 up to 31st day of December, 2018 (both days inclusive).

No refund shall be made of the tax which has already been collected.

Amendment in para 4 of Schedule II of CGST Act (retrospective with effect from 1st day of July, 2017) Transfer of business assets:

(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, ~~whether or not for a consideration~~, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, ~~whether or not for a consideration~~, the usage or making available of such goods is a supply of services;

(c).....(as it is)

Amend Section 172: (Similar in Sec 25 of IGST Act) (Similar in Sec 26 of UTGST Act) (Similar in Section 14 of the Goods and Services Tax (Compensation to States) Act): to extend the time limit provided for removal of difficulties thereunder from three years to five years, with effect from the date of commencement of the said Act.

Amend Section 168: to make provisions for enabling the jurisdictional Commissioners to exercise powers under sub-section (5) of section 66 – determining expenses of special audit and also under second

proviso to sub-section (1) of section 143 –wrt job work procedure.

Amend Section 140: (retrospective with effect from 1st day of July, 2017): Transitional arrangements for input tax credit: prescribe the time limit and the manner for availing input tax credit against certain unavailed credit under the existing law.

Amend Sec 132: offence of fraudulent availment of ITC without invoice or bill to be now a cognizable and non-bailable event. Both who retains the benefit of certain transactions & at whose instance such transactions are conducted liable for punishment.

Section 122 provides for Penalty for certain offences. New subsection (1A) is inserted to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.

amend section 31: empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.

amend section 51: empower Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued. Subsection (3) shall be substituted by “(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”.

sub-section (4) shall be omitted. – i.e. late fee (200 per day, maximum of 5,000) for non-issuance of TDS certificate has been waived off.

Amend 30(1): empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.

Amend 29(1)(c): to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25.

Amend 16(4): to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.

Amend Sec 10(2) : Section 10(2) - The registered person shall be eligible to opt under sub-section (1), if: — (a) *(as it is)*;

(b) he is not engaged in making any supply of goods or services which are not leviable to tax under this Act;

(c) he is not engaged in making any inter-State outward supplies of goods or services;

(d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52; and

(e) *(as it is)*;

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Sabka Vishwas – Legacy Dispute Resolution Scheme

The total number of settlements done under the Scheme as on dated 05.02.2020 are 49,534 and amount involved in these cases is 24,970 crores.

<https://pib.gov.in/PressReleaseDetail.aspx?PRID=1602652>

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E-Way Bill system integrated with VAHAN system

Vehicle number (RC) entered in e-way bill will now be verified with the VAHAN System for its existence/correctness.

VAHAN System provides a nationwide search over the digitized data of Registered Vehicles. VAHAN is a highly flexible and comprehensive system that takes care of all the activities of Vehicle Registration. You can always check your vehicle number in VAHAN system below; <https://vahan.nic.in/nrservices/faces/user/searchstatus.xhtml>

Filling up of Part-B of the e-way bill is a must for movement of the goods, except for within the same state movement between consignor place to transporter place, if distance is less than 50 Kms.

As per the new e-way Bill rule, e-way bill can be generated by the tax payer after entering the Part-B. If

he is not having the Part-B details and transporter is going to update the Part-B, then he/she has to compulsorily enter the transporter id to generate the 'Part-A Slip'.

The Vehicle number can be updated by the generator of the e-way bill or the transporter assigned by the generator for that particular e-way bill.

The e-way bill can be assigned from one transporter to another transporter, for further movement of consignment. Under this circumstance, the latest transporter, assigned for that e-way bill, can update Part-B of EWB.

One e-way bill can go through multiple modes of transportation before reaching destination. As per the mode of transportation, the EWB can be updated with new mode of transportation by using 'Update Vehicle Number'.

Vehicle number not available on VAHAN

If Vehicle no. is not available in the VAHAN system user will get 'Alert Message' about the non-availability of vehicle number in VAHAN database.

If alert message comes it mean the vehicle number entered in the EWB is not available in VAHAN Database, you are requested to hence check and update the vehicle registration with your concerned Regional Transport Office (RTO), otherwise after sometime this vehicle number will not be allowed for e-way bill generation.

Vehicle number available on VAHAN but still alert message pops up

If Vehicle number is there in VAHAN system but not available in e-way bill portal. You can contact the E-way bill Helpdesk and submit your grievance specifying the details of vehicle.

It states that vehicle is registered in more than one RTO

If you receive a message where it states that Vehicle is registered in more than one RTO, you need to approach your RTO and request for updation of the office. Once the details are updated this message will not appear again. Not doing so, later it will be treated as Vehicle no. is not existent and may not be allowed for e-waybill generation.

Unable to find your vehicle details on VAHAN

If you are unable to find your vehicle details on VAHAN, you need to visit your RTO with original RC and other documents and get the details updated in the VAHAN Database.

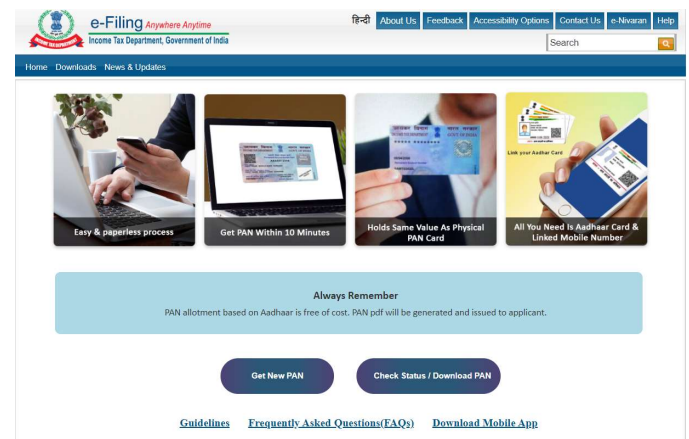
Vehicle number is with temporary registration

If the Vehicle number is with temporary registration, the details are not verified and enter the temporary number starting with TR.

Suggestions

- Govt can verify (to the extent logically feasible) that nature of goods transported (this can be verified by the qty and hsn entered) in vehicle corresponds to the vehicle class. This can ensure the manipulations in e-way bill reduced to a certain extent.
- Govt can up to a certain extent (as to extent digitally possible) verify route of the vehicle travelled with to and fro details mentioned in e-way bill. Integration with FASTag can be helping hand towards the same. This can avoid multiple and false trips on single e-way bill.
- If goods are transported by transporter i would suggest that taxpayers should shift burden of filling PART B by transporter itself.
- Incorrect details of vehicle number should be avoided.
- If on VAHAN there exists no database of vehicle, i suggest to take immediate action as otherwise after sometime this vehicle number will not be allowed for e-way bill generation.

Instant PAN allotment in near to real time is available at free of cost at IT e-filing portal



This facility is for allotment of Instant PAN (on near-real time basis) for those applicants who possess a valid Aadhaar number.

PAN is issued in PDF format to applicants, which is free of cost. The applicant is required to type in her/his valid Aadhaar number and submit the OTP generated on the registered mobile number. Once the process is complete, a 15-digit acknowledgment number is generated. The applicant can check the status of the request at any time and on successful allotment can download the PAN.

This is a paper-less process and applicants are not required to submit or upload any documents. The applicant should not have another PAN. Possession of more than one PAN will result in penalty under section 272B(1) of Income-tax Act.

How to apply for instant PAN

- To apply for PAN, please visit the e-Filing website of Income-tax department.
- Click the link- 'Instant PAN through Aadhaar'.
- Click the link- 'Get New PAN'.
- Fill in your Aadhaar in the space provided, enter captcha and confirm.
- The applicant will receive an OTP on the registered Aadhaar mobile number; submit this OTP in the text box on the webpage. After submission, an acknowledgement number will be generated.
- Please keep this acknowledgment number for future reference.
- On successful completion, a message will be sent to the applicant's registered mobile number and e-mail id (if registered in UIDAI & authenticated by OTP). This message specifies the acknowledgment number.

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Draft Arbitration Council of India (ACI) Rules issued for public consultation

The Government intends to consult all stakeholders in the process. A copy of the aforesaid draft Rules have been uploaded on the website of the department of Legal Affairs (<http://legalaffairs.gov.in/>). Accordingly, DoLA has commenced public consultation on the draft rules with the timeline of submission of comments by 14th March, 2020.

<https://pib.gov.in/PressReleasePage.aspx?PRID=1602900#>

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Centre to raise Rs 46,000 cr as late GST payment interest

The government has discovered a new revenue stream to make up for the shortfall in GST collection and is looking to collect ₹46,000 crore as interest on late payment of tax.

Section 50 is very clear that interest liability is required to be paid on the tax liability that is paid belatedly, either through cash or through utilization of input tax credit (ITC). (int. on gross liability) the CBIC letter said.

levying of interest would trigger huge litigations with taxpayers challenging the demand.

<http://ians.in/index.php?param=news/C-1-1197783>

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Recent tweet by CBIC: interest on delayed gst payments u/s 50, amendment shall be prospective.

There are some discussions in social media w.r.t. interest calculation on delayed GST payments post a few media reports regarding Rs. 46000 Cr interest on the delayed GST payments to be collected by tax authorities. On this issue of interest calculation, it is clarified that-

The GST laws, as of now, permit interest calculation on delayed GST payment on the basis of gross tax liability. This position has been upheld in the Telangana High Court's decision dated 18.04.2019.

(<https://indiankanoon.org/doc/159736439/>)

In spite of this position of law and Telangana High Court's order, the Central Government and several State Governments, on the recommendations of GST Council, amended their respective CGST/SGST Acts to charge interest on delayed GST payment on the basis of net tax liability.

Such amendment will be made prospectively. The States of Telangana and West Bengal are in the process of amending their State GST Acts. After the process of amendment is complete, the changed provisions can be put in operation for the entire country.

Two things the taxpayers currently need now is

- Interest should be calculated on net liability.
- Most important that change should be retrospective.

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GST Fee collected (Month wise)

April 19	1,13,56,44,318
May 19	1,44,97,64,140
June 19	1,72,08,20,601
July 19	1,95,14,44,491
August 19	2,10,10,70,969
September 19	2,01,13,54,741
October 19	1,91,45,49,738
November 19	3,24,75,50,266
December 19	3,44,83,77,366

<https://www.cacubindia.com/news/waiving-off-gst-late-fees-18045.asp>

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File 9/9c w/o late fee till 12.02.2020

Supreme court of india has decided not to interfere with the order passed by the High Court of Judicature for Rajasthan, Jodhpur. Hence, you can file 9/9C without late fees till 12.02.20

Accept GSTR 9 / GSTR 9C returns without any late fees till 12th Feb 2020: Rajasthan High Court

UOI Vs Tax Bar Association (Supreme Court of India)

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CBDT notifies 10-IC, 10-ID forms for firms to avail lower corporate taxes

The income tax (I-T) department has notified forms for companies to avail the reduced corporate tax rates that were announced in September last year.

Form 10-IC will have to be filed by the companies that wish to avail the beneficial rate of 22 per cent upon relinquishment of the exemptions/incentives offered under the Income Tax Act.

The Central Board of Direct Taxes (CBDT) has notified Forms 10-IC and 10-ID for existing companies that want to avail lower I-T rate and new manufacturing firms, respectively.

https://www.business-standard.com/article/pt-stories/cbdt-notifies-forms-for-firms-to-avail-lower-corporate-taxes-120021401162_1.html

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The least movement is of importance to all nature. The entire ocean is affected by a pebble.

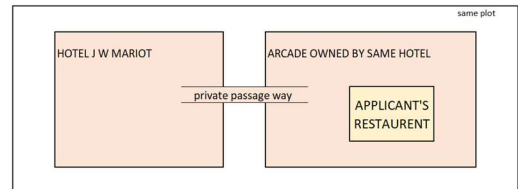
SYNOPSIS OF SOME RECENT ADVANCE RULINGS UNDER GST

SUBJECT	PARTICULARS OF CASE
LAS PALMAS Co-operative Housing Society Limited (GST AAR Maharashtra)	Whether Co-operative Housing Society paying GST on maintenance charges collected from its members shall be entitled to claim ITC of GST paid on replacement of existing lift or elevator at its own premises?
Ruling: Lift which will be installed and commissioned in the building shall become an integral and permanent part of the immovable property. Referring to section 17(5)(d) regarding blocked credit, ITC shall not be available wrt construction of immovable property (other than plant and machinery). P&M excludes land and building. Hence concluding that ITC of lift is ineligible.	

SUBJECT	PARTICULARS OF CASE
M/s. Equitron Medica Private Limited (GST AAR Maharashtra)	Applicant is engaged in the manufacturer of laboratory medical equipment . It supplies goods through distributors network and issues invoices levying GST @ 18% because the distributor is not engaged in scientific research of any type. End user includes institutions engaged in scientific research.
Ruling: Concessional rate of 5% is applicable via GST notification 45/2017 & 47/2017 on supply to the end-users who undertake/are engaged in the scientific research and the goods supplied are used for the same purpose. The applicant does not supply goods to the end-users who undertake or are engaged in the scientific research. The goods are supplied to their distributors only. Hence applicant shall continue to charge 18% gst.	

SUBJECT	PARTICULARS OF CASE
Rishab Industries (GST AAR Maharashtra)	Whether transformers that are supplied to the indian railways are classified as "parts of railway or tramway locomotives or rolling stock- HSN 8607" and therefore subjected to GST @ 5% or transformers shall be categorized under HSN 8504 "electrical transformers, static converters and inductors" and therefore subjected to GST 18%?
Ruling: "Transformers" supplied to indian railways by the applicant are covered under HSN 8504 and Sr. No. 375 of schedule III of the Notification 1/2017 Central Tax (Rate) dated 28.06.2017 and therefore subjected to GST @ 18%. Hence applicant shall continue to charge 18% gst.	

SUBJECT	PARTICULARS OF CASE
Kutting Fusion Hospitality LLP (GST AAR Maharashtra)	The cheaters a restaurant operated by the applicant located as part of retail arcade which is owned by M/s chalet hotel limited. M/s chalet hotel limited operates a hotel under brand name JW Marriott on the same plot as the arcade. What would be the rate of tax applicable to the applicant?



Ruling: As per the contention of the applicant mostly the services are provided to the customers of hotel paying tariff of 7500 and above per unit per day. Notification No. 11/2017- CT(R) as amended states supply of food or drink in a restaurant for consumption..... where the restaurant is located in premises of hotel..... with a tariff of 7500 and above per unit per day.... Applicable rate of GST shall be 18%.	
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SUBJECT	PARTICULARS OF CASE
Vilas Chandanmal Gandhi (GST AAR Maharashtra)	Whether GST is leviable on sale of TDR / FSI received as consideration for surrendering the joint right in land in terms of development control regulations and granted in light of the article of agreement dated 18 12 2017 entered between the applicant and pune municipal corporation read with development control regulations?
Ruling: Yes, GST is applicable and classified under heading 9972 and the applicable rate of gst is 18%.	

SUBJECT	PARTICULARS OF CASE
SAKSHI JHAJHARIA (GST AAR WB)	The Government will send to the Applicant the whole, unpolished food grain for processing. The Applicant will return the grain after crushing. Also the applicant will then pack the material according to the requirement of applicant in the packing material of the applicant itself.
Ruling: It is a composite supply. Principal supply – service of crushing. Bundled with it – packing material supply. It will be an activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution, and its supply to State Government should be exempt under Sl No. 3A of Exemption Notfn. provided the proportion of the packing materials in the composite supply in value terms does not exceed 25%.	

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