

TAX CONNECT'S ANALYSIS OF THE RECOMMENDATIONS OF 43RD GST COUNCIL MEETING HELD ON 28TH MAY 2021.

A. ANNUAL RETURN FOR FINANCIAL YEAR 2020-21:

The following changes will apply for Annual Return for FY 2020-21:

- a. The filing of annual return in FORM GSTR-9 / 9A to be optional for taxpayers having aggregate annual turnover upto Rs 2 Crore;
- b. The reconciliation statement in FORM GSTR-9C will be required to be filed by taxpayers with annual aggregate turnover above Rs 5 Crore.
- c. Taxpayers would be able to self-certify the reconciliation statement (GSTR 9C), instead of getting it certified by chartered accountants/cost accountants.

The Forms GSTR 9 & GSTR 9C for FY 2020-21 would be notified very soon without the area for CA Certification it seems. Some changes may also be made in the new Forms which need to be analysed by Trade & Industry and implemented. Since this time the GSTR 9 & GSTR 9C needs to be **self-certified** by CFO/Tax Head/Management, the responsibility on the management increases.

It is pertinent to mention that filing the GST Annual Forms is the last opportunity for the taxpayers to rectify any mistakes during the year and the same should be dealt with accordingly. Also any inconsistency in filing Form GSTR 9 & GSTR 9C may result in notices from GST Data Analytics Directorate. **Hence large taxpayers may need to get a voluntary GST Audit done before filing the GSTR 9 & GSTR 9C.**

B. INTEREST ON NET CASH BASIS W.E.F. 01.07.2017 : RETROSPECTIVE AMENDMENT IN SECTION 50 OF THE CGST ACT

Interest under GST has been a widely litigated matter. When a taxpayer pays GST, he is entitled to get the Credit of ITC and he pays the balance in cash. It was very clear under Section 49 of The CGST Act itself that interest would be charged on the delayed payment on the cash portion only. However, the GST departments across the Country charged interest on even the ITC Credit portion available to the taxpayer and already paid to the Government.

This matter will now be finally settled now by notification of the provisio under Section 50(1) as inserted by the Budget 2021. This will expectedly lay to rest all such litigation on Interest under GST.

C. COVID-19 RELATED RELIEF MEASURES FOR TAXPAYERS:

1. Relaxation to taxpayers in filing of monthly/Quarterly return in Form GSTR-3B:

Sl. No.	Tax Period	Class of taxpayer (Based on Annual Aggregate Turnover)	Due date of filing	Reduced Rate of Interest					Waiver of late fee till
				First 15 days from due date	Next 15 days	Next 15 days	Next 15 days	From 61 st day onwards	
1	March, 2021	> Rs. 5 Cr.	20 th April	9%	18%	18%	18%	18%	5 th May, 2021
		Up to Rs. 5 Cr	20 th April	Nil	9%	9%	9%	18%	20 th June, 2021
2	April, 2021	> Rs. 5 Cr.	20 th May	9%	18%	18%	18%	18%	4 th June, 2021
		Up to Rs. 5 Cr	20 th May	Nil	9%	9%	18%	18%	5 th July, 2021
3	May, 2021	> Rs. 5 Cr.	20 th June	9%	18%	18%	18%	18%	5 th July, 2021
		Up to Rs. 5 Cr	20 th June	Nil	9%	18%	18%	18%	20 th July, 2021

2. Certain other COVID-19 related relaxations provided as under:

Sl. No.	Compliance	Tax Period	Relaxation
1.	GSTR-1/ IFF	May 2021	Due date extended till 28 th June 2021
2.	GSTR-4	FY 2020-21	Due date extended till 31 st July 2021
3.	FORM GST ITC-04	QE March 2021	Due date extended till 30 th June 2021
4.	Application of rule 36(4)	Periods April, May and June, 2021	Cumulative application of rule 36(4) in the return for the period June, 2021
5.	Filing of returns by Companies	Till 31 st August 2021	Option for filing of returns using EVC instead of DSC by Companies
6.	Time limit for completion of various actions, by any	15 April, 2021 to 29 June, 2021	extended upto 30 June, 2021,

	authority or by any person, under the GST Act, which falls during the period from 15 April, 2021 to 29 June, 2021,		subject to some exceptions. NOTE: <i>Wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply*</i>
7.	furnishing the statement in CMP-08 by composition dealer	QE March 202	NIL interest for first 15 days from the due date. Reduced rate of 9% for further 45 days

- ***For Limitation in the GST Refund cases, many commissionerates were taking an opposite view that that the timelines as per CBIC would prevail over the Hon'ble Apex Court's Order. The same was against the Constitution of India and the dispute is now put to rest by The GST Council***

3. Exemption from IGST has been given **upto 31.08.2021** for the following goods, if imported on payment basis, for donating to the government or on recommendation of state authority to any relief agency or even "free of cost" for free distribution:

- i) *medical oxygen,*
- ii) *oxygen concentrators and*
- iii) *other oxygen storage and transportation equipment,*
- iv) *certain diagnostic markers test kits and*
- v) *COVID-19 vaccines, etc.*
- vi) *Amphotericin B*

It may be mentioned that above goods are also exempted from Basic Customs Duty (BCD).

The effect of The **Delhi High Court's Decision in the case of Gurucharan Singh** seems to have been given effect to.

4. The GST rate on Diethylcarbamazine (DEC) tablets has been reduced to 5% (from 12%).

D. MEASURES FOR TRADE FACILITATION:

1. **Amnesty Scheme to provide relief to taxpayers regarding late fee for pending returns (July, 2017 to April, 2021):**

Category	Late Fee/return	Return	Period	Condition
For NIL returns	Maximum of Rs. 500/- (CGST+SGST)	GSTR-3B	July, 2017 to April, 2021	Returns to be furnished between 01.06.2021 to 31.08.2021
For other than NIL returns	Maximum of Rs. 1,000/- (CGST+SGST)			

It is important to note here that it seems that this amnesty is only for delay in GSTR 3B and not for GSTR-1. Incase the same be so finally, then it would not be very beneficial.

2. Rationalization of late fee imposed under section 47 of the CGST Act (applicable for prospective tax periods):

Category	Late Fee/return	Return
For NIL returns	Maximum of Rs. 500/- (CGST+SGST)	GSTR 3B/GSTR1
For other than NIL returns <i>(Annual Aggregate Turnover in preceding year upto Rs 1.5 crore)</i>	Maximum of Rs. 2,000/- (CGST+SGST)	
For other than NIL returns <i>(Annual Aggregate Turnover in preceding year between Rs 1.5 crore to Rs 5 crore)</i>	Maximum of Rs. 5,000/- (CGST+SGST)	
For other than NIL returns <i>(Annual Aggregate Turnover in preceding year above Rs 5 crores)</i>	Maximum of Rs. 10,000/- (CGST+SGST)	
For NIL returns	Maximum of Rs. 500/- (CGST+SGST)	FORM GSTR-4 by composition taxpayers
For other than NIL returns	Maximum of Rs. 2,000/- (CGST+SGST)	FORM GSTR-4 by composition taxpayers
For TDS returns	Rs.50/- per day (CGST+SGST) and to be capped to a maximum of Rs 2000 (CGST+SGST)	FORM GSTR-7 (TDS Return)

E. GST Rates -

1. Leviability of IGST on repair value of goods re-imported after repairs to be laid down soon
2. GST rate of 12% to apply on parts of sprinklers/drip irrigation systems falling under tariff heading 8424 (nozzle/laterals) to apply even if these are sold separately.

Refer to Circular No. 81/55/2018-GST Dated, 31st December, 2018 which clarified that the term “sprinklers”, in the said entry 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017 covers ‘sprinkler irrigation system’. sprinkler system consisting of nozzles, lateral and other components would attract 12% GST rate’

This is a welcome move for irrigation Sector

F. CLARIFICATION HAS BEEN ISSUED IN RESPECT OF CERTAIN SERVICES:

3. MAJOR RELIEF TO MILL OWNERS PERFORMING JOB WORK FOR PUBLIC DISTRIBUTION SYSTEM -

Supply of service by way of milling of wheat/paddy into flour (fortified with minerals etc. by millers or otherwise)/rice to Government/ local authority etc. for distribution of such flour or rice under PDS is exempt from GST if the value of goods in such composite supply does not exceed 25%. Otherwise, such services would attract GST at the rate of 5% if supplied to any person registered in GST, including a person registered for payment of TDS.

It is to be noted that massive search operations were conducted by DGGI in West Bengal on Flour Mill Owners challenging the GST Rate to be applied. It is important now to see whether the amendment is prospective or retrospective.

4. REAL ESTATE RELIEF -

Land owner promoters could utilize credit of GST charged to them by developer promoters in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid. The developer promotor shall be allowed to pay GST relating to such apartments any time before or at the time of issuance of completion certificate.

There are 2 relief measures herein –

- a. ITC Availment by Land owner promoters on GST charged to them by developer promoters
 - b. Time of Supply for developer promoters - any time before or at the time of issuance of completion certificate
5. Services supplied to an educational institution including anganwadi (which provide pre-school education also), by way of serving of food including mid- day meals under any midday meals scheme, sponsored by Government is exempt from levy of GST irrespective of funding of such supplies from government grants or **corporate donations**.

Earlier such institutions run by corporate donations were not considered as exempt.

6. Services provided by way of examination including entrance examination, where fee is charged for such examinations, by National Board of Examination (NBE), or similar Central or State Educational Boards, and input services relating thereto are exempt from GST.
7. GST on MRO (Maintenance, Repair and Operations) services in respect of ships/vessels shall be reduced to 5% (from 18%). It has been clarified that PoS (Place of Supply) of B2B supply of MRO Services in respect of ships/ vessels would be location of recipient of service.

There are 2 relief measures herein –

- a. The major relief is the amendment of Place of supply for B2B supply of MRO Services to be recipient's place – incase of foreign recipient of services this would result in the services categorized as '**exports**'.
 - b. Reduction in GST Rate on MRO (Maintenance, Repair and Operations) services in respect of ships/vessels **to 5% from 18%**.
8. GST is payable on annuity payments received as deferred payment for construction of road. Benefit of the exemption is for such annuities which are paid for the service by way of access to a road or a bridge.
 9. Services supplied to a Government Entity by way of construction of a rope-way attract GST at the rate of 18%.
 10. Services supplied by Govt. to its undertaking/PSU by way of guaranteeing loans taken by such entity from banks and financial institutions is exempt from GST.

G. The CGST Act and Rules would be amended so as to remove the GSTR-2 & GSTR-3 related provisions so that GSTR 3B and GSTR 1 would be the return filing system only.

It is to be noted that GSTR-2 & GSTR-3 have never seen light of day and keeping the said provisions in the GST Law are not required anymore.

Thanking You!

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