THE GST JOURNAL

Issue 01

October 2020

A fortnightly journal that explores the current scenario of GST in India.

INDEX

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Note from NJ Jain

GST is one of the most imaginative fiction being written today

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We wish to create a melting pot of everything that is related to GST and instigates dialogue within the society, which can help enrich our tax system even further.

With a sudden upheaval of the global economy due to this pandemic, many reforms and tax policies are being revised. And as confusing as they were before, these new updates regarding GST and compensation cess have been confusing people for a long time. With a vision to educate our viewers about the world of taxation, NJ Jain & Associates bring you their all-new fortnightly journal, which is dedicated solely to the domain of GST.

Aimed to be published every fortnight, our journal will provide you with the latest updates in GST reforms, snippets from the debates, comic reliefs, case studies, and a consolidated journal of frequently asked questions regarding GST during the two weeks. The journal will also include two blogs/podcasts by domain experts that will provide you an in-depth understanding of various aspects of India's indirect tax system.

GST in conversation

GST Collection in August at 86,449 crores: Govt

GST Council likely to approve a two-year extension of compensation cess levy

Centre used GST Funds elsewhere, violated the law: Comptroller Auditor General

GST Council Meeting updates: Centre gives two options to the States on GST Compensation

41st GST Council meet: COVID makes for grim backdrop as battle brews over revenue sharing

Govt looking into GST rate cut for automobile sector

Data analytics at work to improve GST

Will pay GST Arrears despite losses due to "Act of God": Centre to States

IRDAI seeks GST rate cut in life, health insurance premium; all eyes on GST Council's meeting on Sept 19

GST in Social media

CBIC
@cbic_india

Launch of GSTR-2B for the month of July 2020

Ministry of Finance
@FinMinIndia

Two borrowing options to meet GST Compensation requirement for 2020-21 consequent to the discussions in the 41st meeting of the GST Council held on 27th August, 2020 communicated to States as per document annexed in the press release

GST Tech
@Infosys_GSTN

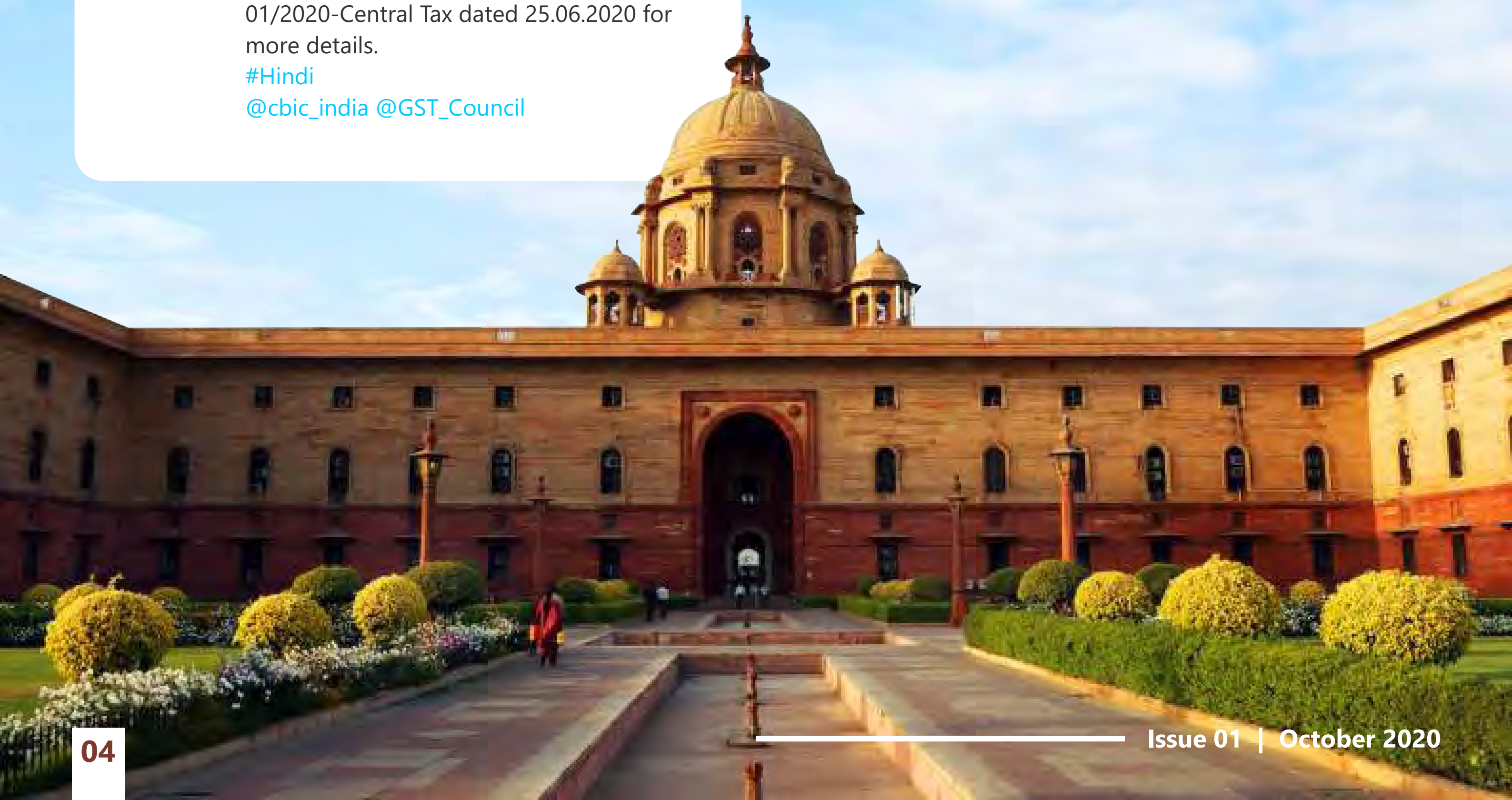
Filing of application for revocation of cancellation of Registration is now available on GST portal. Please refer Order No: 01/2020-Central Tax dated 25.06.2020 for more details.
#Hindi
@cbic_india @GST_Council

Timsy Jaipuria
@TimsyJaipuria

RELIEF FOR #GST TAXPAYERS IN OFFING:
Sources tell me, Noting #COVID19 hardships, GST Implementation Comm considering to extend #GSTR9 & #GSTR9C (FY18-19) deadline, from 30 Sept to 31st Oct.
A FORMAL DECISION IS YET TO BE MADE BY GOVT
@CNBCTV18News @CNBCTV18Live @ShereenBhan

GST Tech
@Infosys_GSTN

GSTR-2B for the month of August 2020 is available now.
#Telugu
@cbic_india @GST_Council



GST & GSTN Updates

- GSTN enables reconciliation tools for matching GSTR-2B (auto-drafted ITC statement) with purchase register.
- In GSTR 1, Credit notes have been Delinked with the requirement to report it with original invoice
- GSTN has enabled the facility to check Bill of Entry information in respect of IGST paid at the time of "Import of goods' in "GSTR-2A"
- A pdf statement has been made available to taxpayers, filing monthly GSTR-1 statement, with system computed values of Table 3 of Form GSTR-3B. This PDF will be prepared on the basis of the values reported by them, in their GSTR-1 statement, for the said tax period.

- **A notification from the Ministry of Finance amending the class of registered persons for the purpose of e-invoicing:**

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- **Notification regarding extension of the due date of compliance under Section 171, which falls during the period from "20.03.2020 to 29.11.2020", till 30.11.2020:**

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- **Informing about the due date for filing FORM GSTR-4 for the financial year 2019-2020 to 31.10.2020**

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- **Latest changes in CGST Rules on the basis of Tenth amendment (2020)**

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- **Time limit of issuance of invoice under section 31(7) CGST Act has been extended upto 31st October 2020**

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- **Late fees is capped to Rs. 250 for taxpayers having liability and fully waved off in case if the taxpayer files nil GSTR4 between 22/09/20 till 31/10/20**

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Judicial Review

★ M/s Tata Motors Limited (Maharashtra AAR) [2020 (9) TMI 352]:-

Facts:

- The applicant has entered into the contract of hiring a bus/motor vehicle, having a seating capacity of more than 13 persons, to transport employees to and from the workplace.
- The applicants recover a very nominal amount from the Employees for the above transportation facility in accordance with the contractual terms.

Queries Raised:

- Whether input tax credit (ITC) available to Applicant on GST charged by a service provider on hiring bus/motor vehicle having a seating capacity of more than thirteen persons to transport employees to & from the workplace?
- Whether GST is applicable to the nominal amount recovered by Applicants from employees for the usage of employee bus transportation facility in non-air conditioned bus?

Judgement Pronounced:

- Having placed reliance on CCE, NAGPUR VERSUS ULTRATECH CEMENT LTD. [2010 (10) TMI 13 - BOMBAY HIGH COURT]; It is held that Input tax credit of GST paid to the vendor for the transportation facility would be available to the extent of Cost borne by the employer i.e. applicant and accordingly, ITC will not be available on the part of the cost recovered from the employees.
- As far as the question of GST leviability on the amount recovered from the employees in terms of the Contractual agreement is concerned; it is held that the said transaction would be covered by clause 1 of the Schedule-III, i.e. Services by the employee to the employer in course of the employment will neither be treated as supply of goods nor supply of services and accordingly, no GST is leviable on the amount recovered from the employees.

★ VKC Footsteps India Pvt. Ltd. Versus Union of India & 2 Other(s) (Gujarat H.C.) [2020 (7) Tmi 726]:-

Facts:

- The Petitioner is engaged in the business of manufacture and supply of footwear, which attracts Goods and Service Tax (for short the "GST") at the rate of 5%.
- The Petitioner procures input services such as job work service, goods transport agency service etc. and inputs such as synthetic leather, PU Polyol, etc., on payment of applicable GST for use in the course of business and avails input tax credit of the GST paid thereon. The majority of the inputs and input services attract GST at 12% or 18%.
- Thus, the GST rate paid by the Petitioner on procurement of input is higher than the rate of tax payable on their outward supply of footwear.
- And hence, the petitioner has applied for a refund of Unutilised ITC under inverted duty structure in terms of provisions contained u/s 54(3) (ii) r.w. Rule 89(5) of CGST Rules, 2017.

Rejection of refund on the portion of Unutilised ITC on input services:

- The refund of accumulated credit of tax paid on procurement of input services has been dis-allowed in pursuance of provisions contained under explanation to Rule 89(5) and further explained by Circular 79/53/2018-GST dated 31.12.2018 wherein it is stated that the intent of the Law is not to allow refund of tax paid on input services as part of unutilised input tax credit.
- **Accordingly, the Constitutional validity of explanation to Rule 89(5) has been challenged before the Hon. Court.**

Judgment Pronounced:

- From the conjoint reading of the provisions of acts and rules, it appears that by prescribing the formula in 89(5) of the CGST Rules, 2017 to exclude refund of tax paid on "input service" as part of the refund of unutilised input tax credit is contrary to the provisions of Sub-section 3 of Section 54 of the CGST Act,2017 which provides for a claim of refund of "any unutilised input tax credit".
- Where "input" and "input service" are both part of the "input tax" and "input tax credit"; Therefore, as per provision of 54(3) of the CGST Act,2017, the legislature has provided that registered person may claim a refund of "any unutilised input tax", and hence, by way of Rule 89(5)of the CGST Rules,2017, such claim of the refund cannot be restricted only to "input" excluding the "input services" from the purview of "Input tax credit".
- Further, the government's intent by framing the rule restricting the statutory provision cannot be the intent of the law as interpreted in the Circular No.79/53/2018GST dated 31.12.2018 to deny the registered person refund of tax paid on "input services' as part of a refund of unutilised input tax credit.
- Accordingly, explanation (a) to Rule 89(5) held contrary to the statutory provisions and refund of accumulated unutilised ITC of input services is allowed.

FAQs

What is e-invoicing?

'E-invoicing' means the invoice shall be prepared after obtaining an Invoice Reference Number (IRN) by uploading specified particulars (in FORM GST INV-01) on the notified Invoice Registration Portals (IRP). 'E-invoicing' doesn't mean the generation of invoice by a Government portal. It facilitates the exchange of the invoice document (structured invoice data) between a supplier and a buyer in an integrated electronic format.

What is the e-invoicing process? How is it different from the present system?

There is not much difference, indeed. Registered persons will continue to create their GST invoices on their own Accounting/Billing/ERP Systems. These invoices will now be reported to the 'Invoice Registration Portal (IRP)'. On reporting, IRP returns the e-invoice with a unique 'Invoice Reference Number (IRN)' after digitally signing the e-invoice and adding a QR Code. Then, the invoice can be issued to the receiver (along with QR Code). A GST invoice will be valid only with a valid IRN.

From which date, e-invoicing is mandatory for the notified classes of taxpayers?

As per the latest notification, e-invoicing will be mandatory w.e.f. 1st October 2020, for notified classes of registered persons (those having aggregate annual turnover at PAN level more than Rs. 500 Crores).

What are the advantages of e-invoice for businesses?

E-invoice has many advantages for businesses, such as auto-reporting of invoices into GST return, and auto-generation of the e-way bill (where required). E-invoicing will also facilitate standardization and interoperability leading to a reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs, and thereby greatly improving overall business efficiency.

What businesses need to do, to be e-invoice ready?

Businesses will continue to issue invoices as they are doing now. Necessary changes on account of e-invoicing requirements (i.e. to enable reporting of invoices to IRP and obtain IRN), will be made by ERP/Accounting and Billing Software providers in their respective software. They need to get the updated version having this facility.

What are the benefits of introducing an e-invoicing system?

- It will reduce reporting in multiple formats (i.e., GSTR – 1/E-way bill)
- E-invoicing can be further used for creating e-way bills by providing only vehicle details additionally.
- Substantial reduction in input credit verification issues as the same data will get reported to the tax department and the buyers.
- A complete trail of B2B/B2C invoices will be available.
- The system can auto-match input credit liability with output tax.

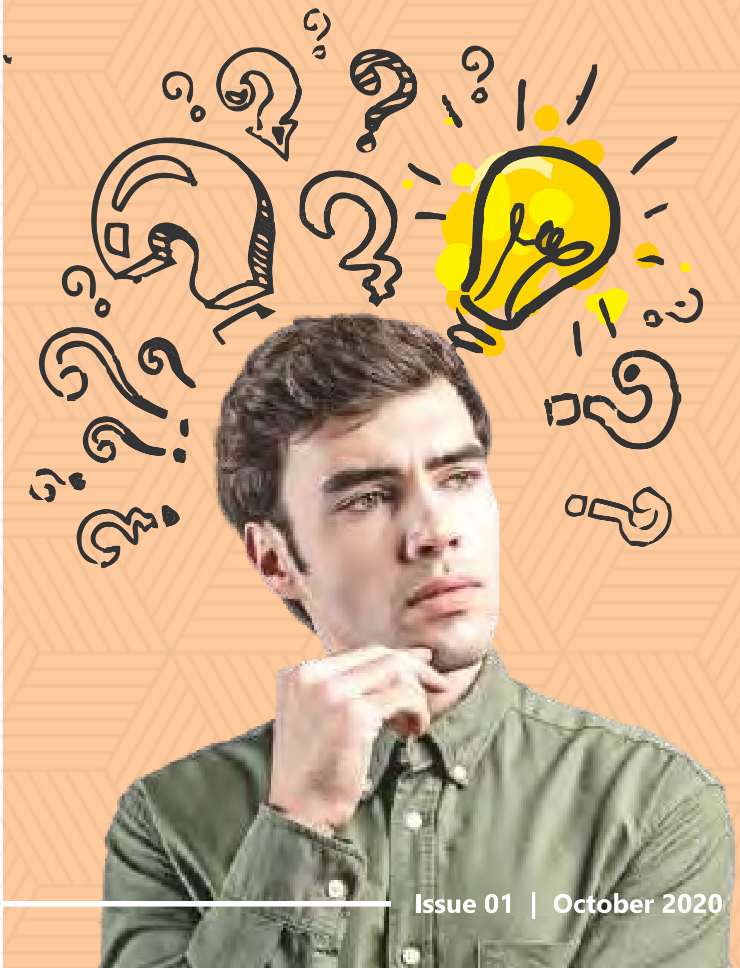
What functionality does Invoice Registration Portal (IRP) perform?

The IRP will only validate for GSTIN correctness and whether an invoice already exists in the GST system. This validation is evaluated on the basis of:

- GSTIN
- Invoice Number
- Type of document
- FY combination

Does the e-invoicing system apply to Importers?

Importers don’t have to follow the e-invoicing system, as Bill of Entry is issued by Customs.



Understanding the New Reforms:

Taxability under GST and allied controversies regarding Director Remuneration

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All you need to know about E-Invoicing

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The Impact of Merger of Union Territories of Daman Diuwith Dadra Nagar Haveli

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Relaxation in compliance due to COVID-19 under GST

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Blogs

Why are STATE GOVERNMENTS & CENTRAL GOVERNMENT @ war with respect to GST?

Our economic trajectory has taken an unexpected turn due to COVID-19, and the debate of massive revenue degrowth for the Central Government or individual states is now raging. In the recently concluded 41st GST Council meeting, held on 27th August 2020, the Central government has proposed two alternatives to the states for recouping their losses in the absence of adequate receipts of Compensation cess.

With this topic re-surfacing throughout news channels and economic newsletters, let's answer the question of: What is Compensation Cess?

In 2017, the then finance minister, late Shri Arun Jaitley, proposed the system of compensation cess to recover any revenue losses incurred by the state due to the implementation of the Goods & Services Tax (GST). To compensate the states for giving up their power of collecting tax on goods and services, the Centre took the responsibility of funding them to recover the losses and simultaneously help the states maintain a 14% tax revenue growth taking base year 2015-16. A promise which brought the states onboard and India could realize a more decade-old dream of GST.

Vide Section 18 of The Constitution (One Hundred and First Amendment) Act, 2016, Parliament instituted the power to compensate the state for loss of revenue arising on account of GST implementation for a period of 5 years. Text from the Constitution reads as under:

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Of e-invoicing & REDUCING GST EVASION

Intending to reduce GST evasion and bring a transparent transaction system, GST Council has made it mandatory for businesses, with gross turnover exceeding 500 crores, to issue an 'electronic invoice' for each transaction that the organization makes. This rule only applies on Business to Business (B2B) transactions, which will fall into implementation from October 1st, 2020.

Each e-invoice will be a Normal Tax Invoice, issued in the standard format of GST INV-01. It will carry a unique Invoice Reference Number (IRN), and a Quick Reference Code (QR Code) generated from the Invoice Registration Portal (IRP), a central registry to which the taxpayers will be reporting their e-invoices.

Any invoice without these two mandatory informations will be treated as an invalid document. Even though Business to Consumer (B2C) transactions do not need an e-invoice, businesses with a turnover above 500 crores through B2C transactions are mandated to put a QR Code on their invoices.

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