

THE GST JOURNAL

Issue 02
October 2020

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

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+91 79 400 226 28

info@niteshjain.co.in

www.njjain.com

Note from N J Jain



From a bird-eye view to a detailed analysis of its nuances, we wish to provide you a platform that consolidates all the necessary information pertaining to GST, so that you can make an informed decision.

GST is one of the most imaginative fiction being written today


Nitesh Jain

*Managing Partner,
N.J. Jain & Associates*


While GST was conceived as a simplified tax system that conglomerates all the indirect taxes under one head, there have been many stigmas and misconceptions regarding its process. And with the present economic scenario, one which has been left at a delicate stage due to the pandemic effects, a need to understand this system becomes even more imperative.

To debunk this predominant mindset and stigmas regarding GST's complicated and tedious system, we present to you an all-new edition of The GST Journal. It is a fortnightly journal that provides you all the necessary updates and explanations of specific reforms that can help you understand and stay toe-to-toe with the current economic scenario. Along with that, the journal will also include debates, case studies, comic strips, FAQs, and blogs by domain experts that will provide you an in-depth understanding of various aspects of India's indirect tax system.


GST in conversation



New GST system generates 69.5 lakh e-invoices in the first week of implementation




Government's indirect tax litigation reduction scheme 'Sabka Vikas' challenged.



GST mop-up rises 4% to Rs 95,480 cr in Sept as recovery picks up pace




Madras High Court Ruling On GST Credit Will Impact Pharma, Textile Sectors



CBIC gives 30-day grace period for those not yet ready for GST e-invoice



Opposition states explore options on GST



New TCS to be levied on total sales consideration, including GST



GST Council meet ends in stalemate; deadlock on compensation issue continues



GST Council to discuss extending cess levy till 2024

GST in Social media



CNBC-TV18 ✓

@CNBCTV18News

Mobile phones to become costlier as govt imposes 10% import duty on mobile display & touch panels

#AtmanirbharBharat



CBIC ✓

@cbic_india

After obtaining due clearances from the Election Commission in view of the Model Code of Conduct, Government has extended due date for furnishing Annual Return in GSTR-9 and GSTR 9C for 2018-19 from 30.09.2020 to 31.10.2020. Notification follows.

@nsitharamanoffc @ianuragthakur



GST Tech ✓

@Infosys_GSTN

GSTR-2B for ITC Period September 2020 has been generated and made available on the GST Portal.

You may download the same via:

Login —> Returns Dashboard —> Period (2020-21 September) —> GSTR-2B section.

@cbic_india @GST_Council



Thomas Isaac ✓

@drthomasisaac

I welcome the new announcement that Centre will borrow through special window and provide back to back loans to states in lieu of Compensation. But there is one issue yet to be resolved- how much of compensation is to be deferred to 2023? Negotiate this point and reach a consensus.



Ministry of Finance ✓

@FinMinIndia

₹95,480 cr gross GST revenue collected in September

■ CGST is ₹17,741 cr

■ SGST is ₹23,131 cr

■ IGST is ₹47,484 cr

(including ₹22,442 cr collected on import of goods)

■ Cess is ₹7,124 cr

(including ₹788 cr collected on import of goods)



GST Tech ✓

@CNBCTV18News

#GST Deadlock Continues | No consensus was reached on who will borrow to bridge #GST compensation shortfall even after much deliberation by the Council meeting yesterday.

@TimsyJaipuria has the details



Timsy Jaipuria

@TimsyJaipuria

#EXCLUSIVE

#GST Compensation Row Update -

Sources: @nsitharamanoffc writes to States, thanks them for cooperation, explains borrowing facility. Says, Centre "faces very serious budgetary onstraints". Shortfall in borrowing can be covered with 0.5% FRBM relaxation.

@CNBCTV18News

GST & GSTN Updates

★ GST Update

CT Notification 74

The said notification prescribes the due date for furnishing FORM GSTR-1 for the quarters for October, 2020 to December, 2020 and January, 2021 to March, 2021 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year

Sr. No.	Quarter for which details in FORM GSTR - 1 are furnished	Time period for furnishing details in FORM GSTR-1
1	October, 2020 to December, 2020	13th January, 2021
2	January, 2021 to March, 2021	13th April, 2021

CT Notification 75

The said notification prescribes the due date for furnishing FORM GSTR-1 for each of the months from October, 2020 to March, 2021 for registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year which shall be the **11th of succeeding month.**

CT Notification 76

The said notification prescribes the staggered date for filing of FORM GSTR-3B for the months of October, 2020 to March, 2021 and prescribes the mode and last date for discharge of tax liability as per FORM GSTR-3B which shall be as under:

Aggregate Turnover	State	Due Date
Aggregate Turnover up to Rs. 5 Crores	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	22nd Day of succeeding Month
Aggregate Turnover up to Rs. 5 Crores	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi,	24th Day of succeeding Month

CT Notification 77

The said notification seeks to make filing of annual return for FY 2017-18, 2018-19 and 2019-20 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.

CT Notification 78

The said notification notified the number of digits of HSN code required be printed on tax invoice.

Sr. No	Aggregate Turnover in the preceding Financial Year	Number of Digits of Harmonised System of Nomenclature Code (HSN Code)
1	Up to rupees five crores	4
2	more than rupees five crores	6

Provided further that a registered person having turnover up to Rs. 5 Crore may not mentioned HSN Code in Tax Invoice on supplies made to unregistered person.

CT Notification 79

The Central Goods and Services Tax (Twelveth Amendment) Rules, 2020 – Certain amendment is done in Rule 46, 67A, 80, 138E, 142 and various GST Forms.

Integrated Tax Notification 06

The said notification notified the number of digits of HSN code required be printed on tax invoice.

Sr. No	Aggregate Turnover in the preceding Financial Year	Number of Digits of Harmonised System of Nomenclature Code (HSN Code)
1	Up to rupees five crores	4
2	more than rupees five crores	6

Provided further that a registered person having turnover up to Rs. 5 Crore may not mentioned HSN Code in Tax Invoice on supplies made to unregistered person.

★ GST Update

- Due Date for Filing GSTR-3B (Turnover above Rs.5 Cr) for September 2020, is October 20, 2020.
- GSTR-2B for ITC Period September 2020 has been generated and made available on the GST Portal.
- The Amnesty scheme for GSTR-3B return late fee adjustment ended on 30th of September. Now late fee will be calculated as per the original rules.
- The Goods and Services Tax Network (GSTN) has clarified that carrying physical copies of e-invoices, mandatory for companies having an annual turnover of Rs 500 crore, is not required during movement of goods. Instead, it is sufficient if the QR code having invoice reference number is produced electronically for verification by the proper officer
- E-way bill generation facility would be restricted in case taxpayers with turnover over Rs 5 crore fail to file their GSTR-3B returns, for a consecutive period of two months or more.

Judicial Review

2020 (10) TMI 434 - AUTHORITY FOR ADVANCE RULING, KARNATAKA

★ IN RE: M/S. YULU BIKES PVT. LTD., KAR ADRG 49/2020 Dated - 30 September 2020

Classification of goods - rate of tax - renting of e-bikes(Miracle), bicycles(Move) without operator - to be classified under the SAC 9973, Leasing or rental services without operator or otherwise? - benefit of Sl.No.17 (viiia) of Notification No.11/2017 Central Tax (Rate) dated 28th June 2017 as amended

Facts:

- The applicant is involved in renting e-bikes (Miracle) & bicycles (Move), which are meant for transportation and hence are covered under transport vehicles.
- The applicant construed the amendment to the rate notification under Notification No. 20/2019-CT® dated 30.09.2019 as that of the amendment to the classification, which is incorrect. The classification of the services does not change but the rate of tax can be changed by the rate notification

Queries Raised:

- The Heading 9966 reads as Rental Services of transport vehicles with or without operators. Heading 9973 reads as Leasing or rental services with or without operator and includes rental or operational leasing of machinery and equipment, personal and household goods, but does not include leasing services of machinery and equipment of personal and household goods on a purely financial service basis.
- Applicant's interpretation that post 30th Sept 2019, renting/leasing of all goods without operator should be falling under Heading 9973 is not correct and hence is not tenable under the law, for the reason that the so-called amendment, under Notification No. 20/2019-C.T.(R) dated 30.09.2019, is to the rate of GST for the services covered under SAC 9973, but not to the classification of the services.
- Further, the amendment under Notification No. 20/2019-CT (R) dated 30.09.2019 amends entry bearing Sl.No.17, covering the services classified under SAC 9973, to substitute "Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (vi) and (viiia) above". Therefore the said amendment is irrelevant to the instant case.

Judgement Pronounced:

R. RAVI PRASAD M.P. AND
SRI. MASHHOOD UR REHMAN FAROOQUI,
MEMBER

Represented by:

Nagarjuna, C.A., Authorised Representative

- The panel stated that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act
- With the applicant being involved in renting e-bikes (Miracle) & bicycles (Move), which are meant for transportation, the panel considered them under transport vehicles.
- The Heading 9966 reads as Rental Services of transport vehicles with or without operators. Heading 9973 reads as Leasing or rental services with or without operator and includes rental or operational leasing of machinery and equipment, personal and household goods, but does not include leasing services of machinery and equipment of personal and household goods on a purely financial service basis. Further subheadings of 9973 pertain to other goods, IPR, etc, with no mention of transport goods/vehicle. Thus the applicant's services are squarely covered under SAC 9966. The specific description is preferred to general one as per the Explanatory Notes and hence we conclude that applicant's activity is classifiable under Heading 9966.
- Applicant's interpretation is not tenable under the law, for the reason that the so called amendment, under Notification No. 20/2019-C.T.(R) dated 30.09.2019, is to the rate of GST for the services covered under SAC 9973, but not to the classification of the services. Further the amendment under Notification No. 20/2019-CT (R) dated 30.09.2019 amends entry bearing Sl.No.17, covering the services classified under SAC 9973, to substitute "Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (vi) and (viiia) above" for item viii in column 3.
- Ruling: Renting of e-bikes/ bicycles without an operator cannot be classified under SAC 9973 - Leasing or rental services without operator and Sl.no.17(viiia) of Notification no.11/2017 CT(R) dated 28th June 2017 as amended is not applicable to the instant case.



Judicial Review

**2020 (10) TMI 431 -
GUJARAT HIGH COURT**

★ **M/S MAHADEV TRADING COMPANY
VERSUS UNION OF INDIA R/Special
Civil Application No. 11262 of 2020
Dated: - 28 September 2020**

Cancellation of registration of petitioner - Validity of SCN - case of the petitioner is that without fixing a date for hearing and without waiting for any reply to be filed by the petitioner, the cancellation order was passed on 30.07.2020 whereby registration of the petitioners with GST department was canceled - principles of natural justice

Facts:

- A perusal of the case indicates that to such show cause notice no response can be given by any assessee. The show cause notice is as vague as possible and does not refer to any particular facts, much less point out so as to enable the noticee to give his reply.
- As the show cause notice itself cannot be sustained for the reasons already recorded above, the cancellation of registration resulting from the said show-cause notice also cannot be sustained. The impugned show cause notice dated 20.07.2020 (Annexure-H) and the impugned cancellation order dated 30.07.2020 (Annexure-I) are hereby quashed - Petition allowed.

Judgement Pronounced:

*Honourable The Chief Justice Mr. Vikram Nath &
Honourable Mr. Justice J.B. Pardiwala
For the Petitioner(s):
Mr Paresh Dave For Mr A S Tripathi*

- According to learned counsel for the petitioner Mr. Dave, without fixing a date for hearing and without waiting for any reply to be filed by the petitioner, the cancellation order was passed on 30.07.2020 whereby registration of the petitioners with the GST department was cancelled. Although the cancellation order refers to a reply submitted by the petitioner and also about personal hearing, but according to Mr. Dave neither he had submitted any reply nor afforded any opportunity of hearing. This fact is not disputed by Mr. Bhatt.
- Mr. Bhatt, learned counsel for respondent No.2, has sought to explain that some discrepancy occurred on account of some technical glitch in the system (on-line portal). The reply filed by the respondent is on record.
- We are not entering into the merits of the impugned order as we are convinced that the show cause notice itself cannot be sustained for the reasons already recorded above. Therefore, the cancellation of registration resulting from the said show-cause notice also cannot be sustained.
- For the reasons recorded above, the writ petition succeeds and is allowed. The impugned show cause notice dated 20.07.2020 (Annexure-H) and the impugned cancellation order dated 30.07.2020 (Annexure-I) are hereby quashed. With respect to the other consequence that may follow, the parties would be at liberty to take appropriate steps. Mr. Bhatt made a request that the Court may grant liberty to proceed afresh. We are not inclined to pass such an order, but we only observe that if law permits, the respondent No.2 may proceed afresh in accordance with the law.



FAQs

★ What is GSTR-9?

GSTR 9 is a document or statement that has to be filed once a year by a registered taxpayer. It contains the details of all supplies that are made and received under various tax heads (CGST, SGST and IGST) during the entire year along with turnover and audit details for the same.

★ What is SinTax, and what goods are they charged on?

SinTax is a tax that is levied on certain products that are either characterized under luxury products or defined as 'sin' goods. It is charged with a motive to discourage consumers from using those goods & services that are deemed undesirable or detrimental to society. In India, SinTax is heavily charged on cigarettes, liquor, tobacco, and automotive.

★ When is IGST charged?

IGST is charged when goods and services are transported or moved from one state to another. The revenue that is collected out of IGST is equally distributed amongst state government and central government as per the rates fixed by Ministry of Finance.

★ What are the different GST rates?

The new Goods and Services Tax (GST) will have multiple rates that start from zero per cent to 28 per cent. As per the Act, the GST will be a four-tier tax structure of 5%, 12%, 18% and 28%. The essential items will attract lower rates while the luxury items will attract higher rates and additional cess. To keep the inflation in check most of the essential food items are exempted and kept under the zero tax rate. Most of the common use items fall under the 5% bracket, and fast moving consumer goods fall under the 12% and 18% bracket. Luxury items and items like tobacco and aerated drinks are listed in the 28% bracket.

★ What is Form GSTR-3B?

It is a simplified summary return which is intended for taxpayers to declare their total GST liabilities for a particular tax period and discharge these liabilities. A normal taxpayer is required to file Form GSTR-3B returns for every tax period.

★ How are export and import goods taxed under GST?

Exported goods will fall under the zero tax bracket, and therefore, no GST is payable on goods and services that are exported. However, credit of input tax credit will be available and can be refunded to the exporters.

Importing goods and services will be treated as inter-state supplies, and therefore, IGST will be levied. The state where the goods are consumed will accrue SGST eventually.



Understanding the New Reforms:

Taxability of Inter Branch movement of conveyances & good.

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Recent changes in GST for Infrastructure and Real Estate Construction Sector

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Analysis of Advance Ruling on Taxability of Employee costs in companies having Multi-state businesses

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TDS Provisions and Compliances under GST law

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I got a new fat spare wheel along!





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RECOMMENDATIONS OF THE **42nd** GST COUNCIL MEETING

At the end of the 42nd GST Council meeting, held on 5th October, the meeting ended with the Ministry of Finance providing specific guidelines and recommendations on future GST filling processes and various reliefs made for small taxpayers. As the Council could not conclude the Compensation Cess debate, the next meeting was scheduled for 12th October to reach a consensus.

A brief update of the recommendations made in the 42nd GST Council Meeting:

1) Compensation Cess

- Levy of Compensation Cess to be extended beyond the transition period of five years i.e., beyond June 2022, for such period as may be required to meet the revenue gap.
Further details to be worked out.
- Centre is releasing compensation of ₹ 20,000 crores to States today towards loss of revenue during 2020-21 and an amount of about ₹ 25,000 crores towards IGST of 2017-18 by next week.

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ITC Reversal in HAM Projects?

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ITC Reversal in HAM Projects?

Initially public road works were executed under the traditional EPC (Engineering Procurement & Construction) model whereby government used to give contracts and 100% payments were released during the construction period itself. Due to increase in demand for infrastructure and paucity of funds, government turned towards BOT (Build Operation Transfer) model where the contractor used to construct the roads and he was given a right to collect toll for 15 to 30 years period and recover his cost. Some projects were issued under BOT Annuity system as well. Due to many resources, these longterm projects didn't prove to be financially sound and banks started showing disinterest in funding them and contractors also found it financially unviable. In 2016, government came up with the new HAM mode (Hybrid Annuity Model)

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