



EIRC NEWSLETTER

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

EASTERN INDIA REGIONAL COUNCIL

ENTERPRISING IDEAS RATIONALLY CONCATENATING



Happy Durga Puja



DAY AND DATE	KNOWLEDGE SESSION	RESOURCE PERSON *	COORDINATOR	VENUE	DURATION	CPE HOURS	DELEGATE FEES ₹
Wednesday 3rd October 2018 NSDL	Seminar on Dematerialisation of Shares of Public Company, SBO, Loans Advances and Private Placement	Shri. K G Joseph Jackson, ROC, ER, Govt. of India, CA Vinod Kothari, CA Supratim Mitra, NSDL	EIRC	R Singhi Hall EIRC Premises, Russell Street, Kolkata	5.30pm to 8.30pm	3	120 + GST Spot 150
Friday 5th October 2018	Seminar on TDS	CA Ghanshyam Kalani	EIRC	R Singhi Hall EIRC Premises, Russell Street, Kolkata	5.30pm to 8.30pm	3	120 + GST Spot 150
Monday 29th to Wednesday 31st October 2018	Three Days Workshop on Insolvency & Bankruptcy Code	Mr. Madan Gosavi*, Judicial Member, NCLT, CS Mamta Binani, Past President, ICSI, CA Kamal Nayan Jain, Past Chairman, EIRC, CA R R Modi and others	EIRC	R Singhi Hall EIRC Premises, Russell Street, Kolkata	5.30pm to 8.30pm	9 (3 Hrs per Day)	350 + GST 120 + GST Spot 450 150 (per day)

* Confirmation awaited.

Note: 1. Please note Online registration closes 1 days before the day of the Seminar. 2. Spot Registration will be taken subject to availability of seats at the venue. 3. Out of the Registration Fees collected for each programme Rs.10 per person would be contributed to Chartered Accountant Benevolent Fund. 4. Spot Fees is inclusive of GST if not mentioned separately. 5. *Resource Person may change without prior information.

Election 2018 Announcement

12th September, 2018

In terms of Rule 16 of the Chartered Accountants (Election to the Council) Rules, 2006, the Election Code of Conduct has been issued, to be effective from 6th September 2018.

In case any member wishes to inform non-adherence to the said Election Code, by any candidate or his/her authorized representative, the same can be informed to the Returning Officer by the member concerned specifying the non-adherence to the provision in the Code of Conduct alongwith documentary evidence in the following manner :-

Particulars of the Informant (Name, Membership No. and Contact Details)	Particulars of the Candidate about whom non adherence to the Code of Conduct to be informed (Name, Membership No. and Region)	Particulars of Non adherence	Relevant Clause from the Code of Conduct alleged to have been infringed	Evidence attached
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The above details duly signed by the informant in writing be sent at the following address or scanned copies through email at electioncode2018@icai.in

V. Sagar, Secretary and Returning Officer
The Institute of Chartered Accountants of India
ICAI Bhawan, Indraprastha Marg, New Delhi -110 002

V. Sagar, Secretary and Returning Officer

Information Session by representatives of CPA Australia on 19.9.2018



L to R- Ms. Preeti Dang, Mr. Mark Chau, Mr. Leslic Leow

Programme on Auditing on 18.9.2018



CA A M Shetty



CA K Sriprya, CCM, ICAI



CA Krishanu Bhattacharya, Past Chairman, EIRC

Seminar on Annual Return & Recent Amendment in GST on 15.9.2018

Seminar on Etiquette, Communication & Grooming on 7.9.2018

Seminar on Form 3CD on 11.9.2018

Investor Awareness Programme on 6th September 2018 by Rotary Club



CA Ashwarya Agarwal



Ms. Shashi Jain



CA Manoj Tiwari



43rd Regional Conference



CA Alpha Daga



CA Shivani Shah



CA Vikash Jain, Past Chairman, EIRC

Annual Conference by DTPA on 8th September 2018



Editorial Board writes

Dear Professional Colleagues,

The Editorial Board takes this opportunity to wish all its members, students and their families Subho Bijaya and a very Happy Dussehra. The joyfulness of festival must be very fresh and to add to this, the great festival of lights awaits us to illuminate our lives and rejuvenate us with new rays of hope. It is firmly believed that joy multiplies while grief divides itself when shared.

With the ensuing ICAI Elections in the year end, ICAI has maintained a combination of strict compliance of Code of Ethics and Integrity. Our integrity backed by an impeccable performance has remained beyond criticism for the larger and long term interest of the profession. It is well said that ethics begins and end with the conscience. Let's uphold transparency, accountability and adequacy of information at all cost to ensure an enabling environment for good governance and practices in all entities and institutions at all levels.

We conclude by saying that a better future is where we are trusted with decisions about the future and remain highly prized for our judgement and rigour. Let us keep extending our core expertise and adding value to the decisions the organisations and government entities make for a sustained future. Let each one of us move as an indispensable "complete business solution provider" of the modern day business.

With warm regards from Editorial Board

6TH SEPTEMBER 2018

NOTIFICATION (Chartered Accountants)

No. 54-EL(1)/2/2018: In pursuance of sub-rule (2) of rule 4 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 read with sub-regulation (10) of regulation 134 of the Chartered Accountants Regulations, 1988, the Institute of Chartered Accountants of India is pleased to notify the following important dates relating to the next elections of members to its Council and Regional Councils:-

Sl. No.	Stages of Election	Dates Fixed
1	The last date and time for receipt of nominations	27.9.2018 – 6.00 P.M.
2	(i) Date(s) and place of scrutiny of Nominations; and (ii) Last date for scrutiny of nominations	1.10.2018 to 9.10.2018 (New Delhi)
3	The last date and time for withdrawal of nominations	19.10.2018 – 6.00 P.M.
4	The date or dates of polling - (i) Ahmedabad, Bengaluru, Chennai, Delhi/New Delhi, Gurgaon, Hyderabad, Indore, Jaipur, Kolkata, Mumbai, Pune, Surat and Thane (ii) Other cities / towns	7 & 8.12.2018 8.12.2018
5	The last date for receipt of applications for permission to vote by post under rule 28 of the Chartered Accountants (Election to the Council) Rules, 2006	5.10.2018
6	The last date and time for receipt by post of ballot papers back	17.12.2018 – 5.00 P.M.
7	Dates of Counting of Votes	19.12.2018 to 7.1.2019
8	The date of declaration of results	9.1.2019* (latest)

The date to be reckoned for the purpose of determining the limitation period for filing election dispute application shall be the date on which the declaration of results is eventually notified in the Gazette of India

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(V Sagar), Returning Officer and Secretary

6TH SEPTEMBER, 2018

NOTIFICATION (Chartered Accountants)

No. 54-EL (1) / 10/ 2018 : In pursuance of rules 21 and 29 of the Chartered Accountants (Election to the Council) Rules, 2006 specified under the Chartered Accountants Act, 1949 read with Schedule 6 thereof and sub-regulation (10) of regulation 134 of the Chartered Accountants Regulations, 1988, it is hereby notified that 7th and 8th December 2018 have been appointed as the dates for the recording of votes for elections to the Twenty Fourth Council and Twenty Third Regional Councils of the Institute of Chartered Accountants of India for Ahmedabad, Bengaluru, Chennai, Delhi/ New Delhi, Gurgaon, Hyderabad, Indore, Jaipur, Kolkata, Mumbai, Pune, Surat and Thane. At all other places, 8th December, 2018 has been appointed as the date for recording of votes.

All polling booths will remain open from 8.00 a.m. to 8.00 p.m. on the respective date(s).

(V Sagar), Returning Officer and Secretary

GST NOTIFICATION

Compiled by : **CA Pradip Kumar Kar**
Email : pradipkumar@gmail.com

ANALYSIS ON 28TH GST COUNCIL MEETING AND CONSTITUTIONAL Amendment

28th GST council meeting was held on 27th July 2018 in New Delhi in presence of Finance minister Shri Piyush Goyal. In the said meeting, first time since GST was rolled out on 1st July 2017 and enforced after substituting all other previous laws, proposals were made for the amendment in GST act. Till then, in all previous GST council meetings changes have been incorporated through either Notifications or circulars which lime line for changes of rules.

The amendment in the law on the basis of the above council meeting, was notified and the amendment bill was passed in the Lok Sabha on 9th August 2018. The same was given the president's Assent to become an act on 29th August 2018. Most of the provisions are soon to be effective once they are notified. So it is of paramount significance for the analysis of the impact of these amendment diligently. The crux of major changes in the amendment act and its effect in the existing law have been highlighted below.

(1) Change in definition of adjudicating authority to exclude the National Anti-profiteering authority.

Change : Clause 2 (a)(ii) of CGST amendment Act, 2018,
Affected provision S. 2 (4) of the CGST Act, 2017.

The definition of Adjudicating authority under S.2(4) has been changed to include CBIC (Central Board of indirect Tax and Custom) in place of CBEC (Central Board of Excise and Custom). National Anti-profiteering authority as defined in S.271 of CGST act has been excluded from the definition of adjudicating authority.

(2) Modification in term used for race clubs in the definition of Business.

Change : Clause 2(b) of CGST amendment Act, 2018,
Affected provision S.2(17)(h) of CGST Act, 2017.

The term "service provided" has been changed which was leading to an ambiguity with actionable claim in relation to race clubs within the definition of business. The modification has been made to include all activities (goods and services) related to race clubs within the definition of business.

(3) Modification in the definition of Cost Accountant.

Change : Clause 2(d) of CGST amendment Act, 2018.
Affected provision S.2 (35) of the CGST Act, 2017

The definition of "Cost and Works accountant" in the earlier provision has wrongly include the S.2 (35) (c) of "Cost and Works Accountants" act, instead of S.2(35)(b) of the same act, which has now being rectified.

(4) Insertion of Article 371J in the definition of Local authority.

Change : Clause 2(e) of CGST amendment Act, 2018
Affected provision S.2(69) of the CGST act, 2017

Definition of Local authority. In the earlier provision the development Board constituted under the Article 371 was included, now being revised to include Article 371J of the constitution for equitable distribution of fund.

(5) Omission of definition of business vertical.

Change : Clause 2(c) of the CGST amendment Act, 2018.
Affected provision S.2(18) of the CGST act, 2017.

Multiple registration were allowed earlier in case of separate business verticals. The law now allows a separate registration for each place of business in respect of persons having multiple place of business in a state or union territory. So separate definition of business verticals are not required as earlier defined in GST law.

(6) Definition of services modified to cover facilitation or arranging the transactions and securities.

Change : Clause 2(f) of CGST amendment act, 2018.
Affected provision S.2(102) of the CGST act 2017.

Earlier definition of both goods and services excludes money and securities. Now with the effect of amendment, any activities in relation to use of money or its conversion from one currency to another currency was explicitly covered within the definition of services. But transactions relating to securities was doubted to be beyond the definition of services. This anomaly was rectified to cover all services which includes facilitating or arranging transactions in securities. So all fee or charges, like documentation fee or broking charges are charged in relation to the transaction in securities and same would be treated as provision of services, which is chargeable to GST.

(7) Retrospective amendment in the definition of supply as regard schedule-II.

Change : Clause 3 of the CGST amendment act, 2018.
Affected provision S.7 of CGST act, 2017.

The definition of supply under S.7 constituted of four clauses, the clause(d) stated the activities to be treated as supply of goods or services as per schedule-II But this clause being part of definition of supply gives an understanding that, an activity listed in this clause would deem to be a supply, even if it does not constitute supply as per first three clauses. The intent of act was only for classification between goods and services once it was identified to be supply as given in first three clauses.

(8) Entities not registered under GST act are liable to pay tax on import of services.

Change : Clause 2(30) of CGST amendment act, 2018.
Affected provision schedule-I of CGST act, 2017.

This amendment has been made to bring any unregistered person involved in import of services under the purview of GST if carried out in course of furtherance of business, from a related person or from fixed establishment outside India.

(9) High sea sales and supply of warehoused goods before clearance for home consumption not to be treated as supply.

Change : Clause 32 of CGST amendment act, 2018.
Affected provision is schedule-III of CGST act, 2017.

This amendment covers three transactions, (a) supply of goods from one non-taxable territory to another, (b) high sea sales, (c) clearance for home consumption. Earlier all were covered under definition of supply. But these were not liveable to tax under IGST act, only requires chargeability under Custom act. So they were considered as Non-GST supply.

This resulted in reversal of input tax credit due to outward supply was considered as exempted items. So with this amendment these transactions will not be treated as supply as they form part of schedule-III items, reversal of ITC is not required.

(10) Restrictive application of S.9(4) of CGST act.

Change : Clause (4) of CGST amendment act, 2018.
Affected provision S.9(4) of the CGST act, 2017

The payment of tax on reverse charge basis by a registered person upon receipt of supply from unregistered person has been suspended. Government will notified that certain class of registered persons who will be the registered taxpayers purported to be covered by this substituted section. This will give great relief to the tax payers in the matter of burden of tax payment as well as compliance part.

(11) Increase in Composition threshold limit and allowance of provision of services.

Change : Clause.5 of the CGST amendment act, 2018.
Affected provision S.10(1) & S.10(2) of the CGST act, 2017.

The threshold limit under composition scheme has been raised from RS.1 Crore to RS.1.5 crores, so as to help the small traders in the country and to boost the Trade. The tax payable under the composition scheme will only be in lieu of tax liveable under normal charge. Reverse charge tax liability upon composition scheme will continue as applicable to normal taxpayer.

A new proviso has been inserted which allows all composition dealers who are engaged in supply of services (other than restaurant service) to opt for composition scheme within the threshold limit.

Traders and manufacturers engaged in supply of services are not eligible for the composition scheme, even if a small portion of their supply relates to services.

The registered person is eligible for composition only if they supply services of value not exceeding 10% of their turnover in the preceding financial year in a state or union territory or RS.5 lac whichever is higher.

(12) Rationalization of time of supply provision for goods and services.

Change : Clause.6 and 7 of the CGST amendment act, 2018.
Affected provisions are S.12(2)(a) and S.13(2)(a) and S.13(2)(b) of CGST act, 2017.

S.31(1) & (2) tells about the last date of issue of invoices in general situation both goods and services. S.31 in general defines last date of issue of invoice in case of (a) continuous supply of goods and services, (b) cessation of supply of services before the completion of supply and, (c) goods taken on approval for sale or return basis.

The provision of time of supply which takes into account the last date for issue of

invoice, only refers to subsection (1) & (2) of S.31, no reference is drawn under time of supply in special circumstances given under other subsection. So in order to overcome this anomaly the reference to particular subsection to be removed.

(13) Input Tax Credit on services provided to any person on direction of other person.

Change : Clause.8(a) of CGST amendment act,2018.

Affected provision S.16(2)(b) of the CGST act,2017.

To avail ITC credit the registered person must have received the goods or services.

In Bill to ship model, it is deemed that goods are received when supplier delivers the goods to any other person on the direction of the recipient.

This deemed assumption shall now be applicable in case of services.

The ITC will be allowed to the person, on whose direction the third person will receive the services.

(14) Entitlement of Input tax credit upon payment by supplier subject to new return filing procedure.

Change : Clause.8(b) of CGST amendment act,2018

Affected provision S.16(2)(c) of the CGST act, 2017.

To avail ITC, tax should have been paid by the supplier.

New return filing mechanism may allow recipient taking ITC in certain situation and subject to certain condition. So requirement of payment of tax by supplier has been made subject to new return filing mechanism.

(15) Input Tax credit availability on schedule-III

Change : Clause. 9(a) of CGST amendment act, 2018

Affected provision S.17(3) of the CGST act, 2017.

The new provision has been inserted so as to allow ITC on activities mentioned in schedule-III (other than sale of land mentioned in clause (b) of paragraph 5 of schedule-II, and sale of building) from removing it from the ambit of exempt supplies. This will not be compulsion for reversal of credit.

Excluding of supplies covered under schedule-III from scope of exempt supplies under S.17(3), will result in reversal of credit particularly in case of high sea sales, merchant trade transactions and supply of warehoused goods before clearance for home consumption.

(16) Expansion of scope of availability of Input tax credit in motor vehicle.

Change : Clause .9(b) of CGST amendment act, 2018

Affected provisions are S16(1) and S.18(1) of the CGST act, 2017.

Under this section new clauses were inserted (aa) &(ab) under S.18(1)

Scope of availability of ITC on motor vehicles having approved capacity of not more than thirteen person (including driver) if used for specified purpose has been extended to aircraft, vessel.

The ITC shall hence forth be available on Dumper, Forklift, Trucks etc.

ITC shall not be available to the motor vehicle having capacity not more than thirteen person. ITC also will not be allowed in respect of aircraft, vessel and motor vehicle used for personal purpose.

A new provision has been inserted allowing ITC on motor vehicle used for transportation of money for or by a banking company or financial institutions.

ITC is will be available in respect of service of general insurance, servicing repair and maintenance of motor vehicle, air craft and vessel on which ITC is not available under clause (a) &(aa) of subsec.1 of S.18.

Unrestricted ITC is allowed in respect of motor vehicle used for transportation of goods. ITC cannot be allowed in respect of motor vehicle, if used for transportation of person even if used for transportation of goods.

In respect of vehicle and aircraft ITC will be blocked, except it is used for certain specific purposes.

Motor vehicle when used by insurance company or for supply of insurance services ITC will be available in respect of such motor vehicle, aircraft, vessel insured by him.

Besides above anomaly in all other conveyance ITC is freely available.

(17) Expansion of scope of ITC for S.17(5) (b).

Change : Clause.9(b) of the CGST amendment act, 2018 .

Affected provision S.17(5) clause (b) of the CGST act 2017 .

The above provision tells about the blocked credit, where credit are not available in case, supplies have been made in specified case given in the act. But provisions have been amended so as to allow ITC in respect of goods or services or both, if it is made obligatory on the part of employer to provide such services under any law for the time

being in force.

The ITC has been enabled on (a) food, (b) beverages, (c) outdoor caterings, (d) beauty treatment, (e) health services etc if required to be provided by the employer through any obligation imposed under any law.

Renting or hiring motor vehicles, vessels, aircrafts are blocked only if purchase of such are blocked as per clause (a) &(aa) of S18(1).

(18) Insertion of Entry 92A in the exclusion from turnover for distribution of credit.

Change : Clause.10 of the CGST amendment act,2018.

Affected provision S.20 of explanation (c) Of CGST act, 2017.

The newly insertion entries of 92A of List.1 of seventh schedule of constitution.

The tax levied under entry 92A of List.1 from the value of turnover has been excluded for the distribution of credit. The said entry covers taxes on the sale or purchase of goods other than newspapers where such sale or purchase takes place in the course of interstate trade or commerce.

(19) The threshold exemption limit for registration increased for certain states.

Change : Clause.11 of the CGST amendment act,2018 .

Affected provision, second proviso to S.22(1) and explanation(iii) of the CGST act,2017.

For special category states the aggregate turnover provided in 1st proviso increased to RS.20 Lac from RS.10 Lac. Power has been provided under law to increase the threshold limit.

Arunachal Pradesh, Assam, Meghalaya, Sikkim, Himachal Pradesh, Uttarakhand has been excluded from the definition of special category state.

(20) compulsory registration for E-commerce operator required to collect tax.

Change : Clause.11 of the CGST amendment act, 2018 .

Affected provision S.24(x) of the CGST act,2017.

All e-commerce operators were required to compulsorily register themselves irrespective of whether they are required to collect TCS. This is applicable even if person engaged in supply of goods or services through their own websites, also require for compulsory registration.

This will benefit the small e-commerce operator who are not required to collect tax at source under S.52 of the CGST act, enjoys the threshold exemption limit for registration purpose.

(21) Multiple registrations for each place of business and separate registration for SEZ units.

Change : Clause. 13 of CGST amendment act, 2018

Affected provision S.25(1) &(2) of the CGST act,2017

The newly included in the act, person having unit in special economic zone or special economic zone developer shall have to apply for separate registration, distinct from its place of business located outside the SEZ in the same state or UT. Earlier this provision was contained in the rule, now being included in the act for the separate enforcement.

Multiple registration were allowed earlier only in case separate business verticals. The law now requires separate registration for each place of business, in respect of a person having multiple place of business in the state.

(22) Suspension allowed upon cancellation of registration.

Change : Clause. 14 of the CGST amendment act,2018 .

Affected provisions are ,S29(1)(c) &S.29(2) of the CGST act, 2017.

The new proviso ensures that once registration has been sought to be cancelled, proper officer may suspend the registration till procedural formalities have been complied.

The suspension will only be for the period and manner prescribed in the rules. The registration suspended will not be required to file return till suspension is in effect. This provision will make hardship to the registered person in case registration is suspended.

(23) Issue of consolidated Credit note in a Financial year.

Change : Clause. 15(a) of CGST amendment act, 2018 .

Affected provision, S.34(1) of the CGST act, 2017 .

With this amendment the suppliers are not required to link credit notes with individual invoices. Suppliers are allowed to issue consolidated credit note in respect of multiple invoices issued in a financial year.

(24) Issue of consolidated Debit note in a Financial year.

Change : Clause. 15(b) of CGST amendment act,2018

Affected provision, S.34(3) of CGST act,2017

With this amendment suppliers are not required to link debit note with individual invoices. They shall issue consolidated debit note in respect of multiple invoices in a

financial year.

(25) Accounts to be audited for a specified registered person.

Change : Clause.16 of CGST amendment act, 2018.

Affected provision. 35(5) of The CGST act, 2017.

The audit of a registered person, if exceeds the prescribed limit, has to be undertaken by a Chartered Accountant or a cost accountant as defined in S.35(5) read with S.44(2) of the CGST act, is not applicable to any department of Central government or state government or a Local authority, whose account are being regularly audited by CAG.

(26) Empowerment of time limit and periodicity for filing return through.

Change : Clause. 17(a) of the CGST amendment act, 2018.

Affected provision, S39(1) of the CGST act, 2017.

The Govt. may notify in certain class of registered persons ,return to be filed on quarterly basis. As per the provision of the act the return of GSTR-3 /GSTR-3B has to be filed by 20th of the next month. Even though the Govt. makes rule to file the return on quarterly basis for selective tax payer, it could not circumvent the provision of the act.

(27) Payment of tax on monthly frequency for quarterly tax payers.

Change : Clause. 17(b) of CGST amendment act, 2018.

Affected provision, S.39(7) of the CGST act, 2017.

Govt. shall make regulation for a registered person to pay tax before last date of filing return under GST as per GSTR-3B , In the new return filing mechanism, although provision allows certain tax payer to file return on quarterly basis, but time period for making payment of tax will be monthly basis. So under the new provision inserted the taxpayer , last date for making payment will be before the last date of filing return.

(28) Correction of mistake through an alternative mechanism including amendment return.

Clause. 17(c) of the CGST amendment act, 2018.

Affected provision, S.39(9) of the CGST act, 2017.

This amendment proviso allows for correction of return in case any mistake or omission are discovered, can be rectified through notified rules. It is proposed to introduce amendment return as per new return filing mechanism for correction of the last mistake.

(29) Procedure for furnishing return and availing ITC in the new return filing mechanism.

Change : Clause.18 of the CGST amendment act, 2018.

Affected provision ,S.43A of the CGST act, 2017.

The procedure for furnishing details of outward supplies by a registered person and availing ITC has been inserted in the new return filing mechanism. The registered recipient is required to verify, validate, modify or delete the details of supplies furnished by the supplier.

The entire procedure of matching correctly and procedure of availing ITC by recipient will be prescribed through rules. The procedure for declaration of outward supplies will also be prescribed there in.

Where the outward supplies are not furnished by the suppliers, then the maximum amount of ITC will be given through procedure, will not exceed 20% of the ITC available in any situation. Tax on outward supplies declare by supplier will be deemed to be payable by the suppliers.

Both the suppliers and the recipients will be made jointly and severally liable to pay tax, for details furnished or not furnished by the suppliers in respect of which the return has not been furnished. The procedure of recovery may be prescribed in the rules.

The procedure, safeguards threshold of tax amount in relation to outward supplies for the supplies for supplier can be prescribed separately for a registered person :

- a) within 6 month of taking registration
- b) who will fail in payment of tax and default will continue for more than 2 month from the due date of payment.

(30) Expanding the working area of GST practitioner.

Change : Clause. 19 of the CGST amendment act ,2018.

Affected provision ,48(2) of the CGST act, 2017.

With this amendment the scope of GST practitioner will be widen . A registered person can authorise a GST practitioner to perform function such as filing of refund claim, application for cancellation of registration in addition to filing of return on behalf registered person .

(31) Utilisation of IGST has to be made first against payment of any tax.

Change : Clause. 20(b) & Clause.21 of CGST amendment act, 2018.

Affected provision ,S.49(5) (c)&(d) of the CGST act, 2017.

The new provision inserted for the utilisation of IGST first against payment of any out - put tax liability in the form of CGST/SGST/UTGST/IGST. The balance of CGST/SGST/UTGST can be used only when credit available in IGST has been fully exhausted.

This provision has been inserted in order to minimise the fund settlement on account of IGST. This has been amended to restrict the utilisation of SGST/UTGST credit available against the payment of IGST, when balance credit in CGST is not available for payment of IGST.

(32) The matching concept extended to GSTR-3B, for E-commerce transactions.

Change : Clause . 22 of the CGST amendment act, 2018.

Affected provision, S.52(9) of the CGST act, 2017.

Due to continuation of filing of GSTR-3B return under S.39, the concept of matching against GSTR-2 could not take place. The provision to carry out matching between two has been enabled.

- (a) The return by E-commerce operator under GSTR-8
- (b) Statement of outward supplies under GSTR-1 or monthly return as per GSTR-3/ GSTR-3B.

(33) Modification of relevant date in case of refund of unutilised credit.

Change : Clause. 23(b)(ii) of GST amendment act, 2018.

Affected provision ,S.54(2) Explanation. 2 clause(e) CGST act, 2017.

Under this amendment the relevant date for calculation of time period for refund of unutilised ITC shall henceforth be due date for furnishing return under S.39 for the period in which claim arises.

The amount has been sought to remove the contradiction involved in S.54(3) and explanation (2e) of S.54, which provides two different time period for calculation of relevant date.

(34) Unjust enrichment applicable in case of refund on supplies to SEZ developer or SEZ unit.

Change : Clause.23(a) of CGST amendment act, 2018.

Affected provision ,S.58(8)(a) of the CGST act, 2017.

S.54(8) provides the situation where principles of unjust enrichment does not apply for the purpose of refund ,like zero rated supplies of goods or services.

The zero rated supplies under S.16(1) of IGST act includes physical export of goods or services and supplies made to an SEZ unit/developer and principles of unjust enrichment will not apply to such cases.

Presently under S.16(3) of IGST, supplier making supplies to SEZ unit /developer can claim refund. So it is proposed to allow ITC to SEZ developer / unit and supplier in DTA can recover the tax amount from such SEZ unit /developer.

S.58(8) was amended in order to provide that , principle of unjust enrichment will apply in case of refund claim arising out of supplies of goods or services made to SEZ unit/ developer. So since burden is passed to them ,refund will be provided to them not to DTA.

(35) Relevant date for export of services to include cases where the payment is received in INR if permitted by RBI.

Change : Clause . 23(b)(i) of the CGST amendment act ,2018.

Affected provision S.54 explanation (2)(c) of the CGST act, 2017.

For export of service, the provision entails for, consideration to be received in foreign exchange ,except export to Nepal and Bhutan where RBI permitted to receive in INR. The definition of export services was amended to include Indian rupee as per RBI regulation for the qualification as exports.

The provisions of the relevant date to calculate the period for filing of refund claim is amended to bring it in line with definition of export services .

(36) Person to include distinct person for recovery and definition of collector specified.

Change : Clause.24 of the CGST amendment act, 2018 .

Affected provision , S.79(4) of the CGST act, 2017 .

With this amendment recovery of tax can be made from distinct person in different states in respect of default by any person with the same PAN to exercise the speedy recovery of tax from other establishment. The term collector has been amended to include Dy. Commissioner, Dist. Magistrate, revenue head of a state.

(37) Ceiling limit for pre-deposit for filing appeal before Appellate Authority.

Change : Clause.25 of the CGST amendment act, 2018.

Affected provision, S.107(6) of CGST act, 2017.

The limit fixed for filing an appeal before an Appellate Tribunal has been specified to RS.25 crore.

(38) Ceiling limit for filing appeal before Appellate Tribunal.

Change : Clause .26 of CGST amendment act, 2018.

Affected provision, S.112(8) of the CGST act, 2017.

In this amended provision limit fixed for a ceiling of RS.50 crores for filing an appeal before the Appellate Tribunal.

(39) The time limit for payment of Tax or penalty in case of goods detained or ceased increased to fourteen days.

Change : Clause.27 of CGST amendment act,2018.

Affected provision, S.129(6) of the CGST act,2017.

The time limit for payment of tax and penalty for goods detained or seized in transit has been increased to 14 days from earlier provision as was fixed 7 days after which confiscation proceedings was initiated.

(40) Retrospective amendment in the transitional credit.

Change : Clause .28 of CGST amendment act,2018.

Affected provision S.140(1) of CGST act, 2017 and , explanation.1 of clause (iii) &(iv) of CGST act, 2018, and explanation.2 of clause (iii) & (iv) of CGST act, 2018.

Retrospective amendment has been brought to notify that transitional credit shall be available only in respect of eligible duties. The definition of eligible duties has been modified and from now it does not include the additional duties of (Textile and Textile articles) act 1978 .Other cases like (i) Krishi Kalyan Cess, (ii) Education cess ,(iii) Secondary and higher education cess, which should have been available originally will not be available through this retrospective amendment. This was contained in the rules which was overriding the provisions, allowing taking of credit of such cess as per the provision.

(41) The time limit for receipt of goods sent on job work basis extended.

Clause .29 of CGST amendment act, 2018.

Affected provision , S.143(1) of CGST act, 2017.

New provision has been inserted to allow the extension of time limit for receiving back the goods (inputs as well as capital goods) sent in job work. The time period of one year or three year may be extended with prior permission of Commissioner for a further period not exceeding 1yr or 2yr.

(42) Retrospective insertion of Transaction in the heading of schedule-II.

Change : Clause.31 of CGST amendment act, 2018.

Affected provision schedule –II of CGST act, 2017.

The inclusion of 'Transaction' ensures complete application of items specified in sch –II, as some of the items are in the form of transaction rather than activities as a whole.

(43) Definition of export of services to allow receipt in INR if permitted by RBI.

Change : Clause.2 (i) of IGST amendment act, 2018.

Affected provision, explanation of S.2(16) of IGST act, 2017.

The definition of export of services has been amended to include receipt in Indian rupees as per RBI regulation for the qualification as exports.

(44) Modification in the definition of Government authority.

Change : Clause .2(ii) of the IGST amendment act, 2018.

Affected provision, explanation of S.2(16) of IGST act, 2017.

In the definition of 'Governmental authority' , 'Panchayat' under the article 234G has been included which was not included earlier.

(45) Restrictive application of S.5(4) of IGST act.

Clause.3 of IGST amendment act, 2018.

Affected provision , S.5(4) of the IGST act, 2017.

The S.5(4) of IGST act deals with payment of tax on reverse charge basis by a registered person upon receipt of supplies from an unregistered person, now has been put under suspension. It has been proposed that Govt. will notify certain class of registered persons, who shall be liable to pay tax on reverse charge basis in case of receipt of goods from an unregistered person. This has curtail the applicability of this section to all registered tax payers. Only notified persons will have to pay tax on reverse charge.

(46) Omission of term business vertical in the deeming fiction for distinct person.

Clause .4 of IGST amendment act, 2018.

Affected provision ,S.8(2) – explanation 1(iii) of IGST act, 2017.

Multiple registration were allowed earlier only in case of separate business vertical. The law now allows separate registration for each place of business in respect of person having multiple place of business in a state. So definition of business vertical were not required and was deleted.

(47) Place of supply in case of goods transported outside India where supplier and recipient are in India.

Clause .5 of IGST amendment act, 2018.

Affected provision S.12(8) of IGST act, 2017.

The new proviso has been included in order to state that ,place of supply in case of goods are transported outside India, shall be the place destination of such goods in a situation where supplier and recipient located in India. This amendment will definitely boost export.

(48) Place of supply outside India where goods temporarily imported into India and then exported without being put to use after any treatment or process carried out on it.

Clause.6 of the IGST amendment act, 2018 .

Affected provision, S.13(3)(a) of IGST act, 2017.

In order to encourage and boost skill and technical expertise in the country, it is decided not to charge any tax on any treatment or any process done on the goods imported into India which are later on to be exported. The place of supply will be considered as outside India. In earlier provision only repair services were covered. Now the provision has been extended to any treatment or process on the goods, temporarily imported into India and then export.

(49) Apportionment of IGST.

Clause .7 of IGST amendment act, 2018.

Affected provision, S.17(2A) of the IGST act, 2017.

In this new provision where credit of IGST does not get apportionment under S.17(2), shall be apportioned between centre and state Govt. on 50% : 50% basis. The un apportioned amount shall then be adjusted against amount apportioned under clause (a) to (f) of S.17 (2).

(50) Ceiling limit introduced for filing appeal before Appellate Authority and Appellate Tribunal.

Change : Clause. 8 of IGST amendment act, 2018.

Affected provision, S.20 of the IGST act, 2017.

The ceiling limit introduced for filing appeal under IGST act has been kept at RS.50 crores for Appellate Authority and RS.100 crores for Appellate Tribunal respectively.

(to be continued in next issue)

STUDY CIRCLE	DAY & DATE	KNOWLEDGE SESSION	RESOURCE PERSON	TIME	CO-ORDINATOR	CPE HOUR
DTPA CA Study Circle	Thursday 4th October 2018	Reassessment proceedings u/s 148 Practical Issues in Tax Audit report, E-filing and E-Assessment	CA Anand Tibrewal CA Sanjay Bhattacharya	From 4.00 PM	CA Niraj Kumar Harodia 8017467202	4
DTPA CA Study Circle	Wednesday 31st October 2018	Recent judicial pronouncements and Advance Rulings under GST Recent amendments in GST Law	Adv. Vinay Shraff CA Ankit Kanodia	From 3.30 PM	CA Niraj Kumar Harodia 8017467202	4

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