

GST Trends

August 2018

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The GST Council held its 29th meeting on 4 August 2018 with a primary focus on addressing concerns of the Micro, Small & Medium Enterprises (MSME) sector. The month of August also witnessed the debate on various issues relating to GST reaching the floor of the Parliament with the Lok Sabha debating and subsequently passing the GST amendment bills.

Top Trends

- The 29th Council meeting was held on 4 August 2018 in New Delhi. Key decisions taken during the meeting are:
 - Incentives on digital payments in the form of 20% cash back of GST component to be introduced on Business to Consumer (B2C) transactions.
 - Ministerial panel has been set up to look into the issues being faced by the MSME sector due to the implementation of GST.
- The Council in its 28th meeting held on 21 July 2018 had recommended amendments to the GST law. The Lok Sabha passed the GST amendment bills on 9 August 2018 approving the changes recommended by the Council and they have received the President's assent on 29 August 2018. However, the date for implementing the amendments is yet to be notified by the government.
- The GST portal has introduced a new functionality to enable filing of single refund application for multiple tax periods on account of refund of accumulated Input Tax Credit (ITC) due to exports/supplies to Special Economic Zone (SEZ) without payment of tax.

Judicial Pronouncements

Issue	Ruling	SKP Comments
<p>Whether the money paid by the customer to the driver of the cab for the services of the trip is liable to GST and whether the taxi aggregator (applicant) liable to pay GST on this amount? M/s Opta Cab Private Limited - Authority for Advance Ruling (AAR), Karnataka</p>	<p>The applicant submitted that it is in the business of taxi aggregation service. It further stated that the applicant does the billing in the name of the taxi driver and such driver would collect the amount from the customer on completion of the trip. The applicant does not charge any trip commission to the driver but collects service charges from the drivers for the use of IT services. The applicant contended that GST, if any, on trip charges would be payable by the drivers and users and not be collected and paid by it as the amount is not routed through it.</p> <p>The AAR answering the question in the affirmative relied on Notification No. 17/2017-Central Tax (Rate) dated 28 June 2017 whereby, tax on intra-state supplies shall be paid by the e-commerce operator for services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motorcycle.</p> <p>The AAR observed that the services of transportation of passengers are supplied to the consumers through the applicant, and by virtue of this provision, it shall be deemed that the applicant would be the supplier liable to pay tax in relation to the supply of such service by the taxi operator.</p>	<p>The AAR has made it clear that the fact that the trip charges are not being collected and paid through such e-commerce operator would have no bearing in the given circumstances in view of the said notification, the electronic commerce operator shall be liable to pay tax on the services provided by a motor cab, etc. if such services are supplied through it.</p>

Issue	Ruling	SKP Comments
<p>Whether the activity of providing end-to-end system solutions for the controlled casting of iron and steel which includes the supply of refractory components and associated services result in the supply of goods or services within the meaning of CGST Act? Vesuvius India Ltd. - AAR, West Bengal.</p>	<p>The applicant stated that the proposed activity would involve the following:</p> <ul style="list-style-type: none"> • Refractory design, supply, application, performance, inventory management, and disposal post application; • Continuous monitoring of the flow of hot metal, and quality control of the steel production process. <p>The applicant clarified that the procedure undertaken under the proposed contract would not involve the transfer of title to the refractories used in the course of the production process. Use of the refractories delivered to the customer, including application and disposal, will continue to be controlled by the applicant.</p> <p>The AAR observed that the applicant would not be paid for the supply of refractories, but for managing the flow of the hot metal in the production of iron and steel at an agreed rate per tonne of liquid metal manufactured on a monthly basis. Thus, the activity is a continuous supply of service within the meaning of Section 2(33) of the CGST Act, provided that the service is agreed to be provisioned for a period exceeding three months.</p>	<p>The AAR while pronouncing the ruling has rightly placed reliance on the substance of the transaction, including the basis for determining the consideration under the proposed contract to arrive at the conclusion that the essential character of the transaction is supply of services and not goods.</p>
<p>Whether supply of non-alcoholic beverages to SEZ units using coffee vending machines is in the nature of zero-rated supply as defined under Section 16 of the IGST Act? M/s. Coffee Day Global Limited - AAR, Karnataka</p>	<p>The applicant contended as follows:</p> <ul style="list-style-type: none"> • Once Section 16 of the IGST Act provides that all supplies to SEZ, without any distinction, have been declared to be zero-rated supplies, Rule 89 of CGST dealing with a refund of ITC related to SEZ supplies cannot restrict such supplies to be used only for 'authorized operations.' • The provisions of the Act have the ability to silence the provisions contained in the Rules to the extent where they are inconsistent with the Act. Therefore, the supplies to the SEZ units are in the nature of zero-rated supplies notwithstanding that they are not used for authorized operations. 	<p>In the given case, the applicant placed reliance solely on the provisions of the IGST Act vis-à-vis the provisions of the CGST Rules. As observed by the AAR, the applicant did not contest that its activity is an authorized operation for an SEZ. However, the uniform list of approved services for SEZ contains 'outdoor caterer services' as an authorized service which may cover the activity undertaken by the applicant. If this would have been placed before the AAR, it may have ruled in favor of the applicant.</p>

Issue	Ruling	SKP Comments
	<ul style="list-style-type: none"> Therefore, even if it is said that beverages consumed by employees cannot be said to be used for authorized operations, the said supplies by the applicant should be treated as zero-rated. <p>The AAR, answering the question in the negative, rejected the contention of the applicant and observed that the applicant had used the term 'any supply.' However, this term is not used anywhere in the statute. The word 'any' has been used only once in Section 16(1) of IGST Act. It reads '(1) "zero-rated supply" means any of the following supplies of goods or services or both, namely:- ...'. This sentence is followed by two options (a) and (b) and there is an 'or' between them. Thus, the word 'any' refers to either (a) or (b). Had the word 'any' been placed at the beginning of the sentence in (b) to read 'any supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone Unit' then the contention of the applicant would have been worth consideration. The statute has not used this word in (b). Therefore, the interpretation of the applicant is not correct.</p> <p>The AAR further observed that the applicant has not made out a case that the activity undertaken by them is certified as an authorized operation by the proper officer of the SEZ and thus activity undertaken by the applicant does not qualify to be a zero-rated supply.</p>	

Compliance Chart for Upcoming GST Due Dates

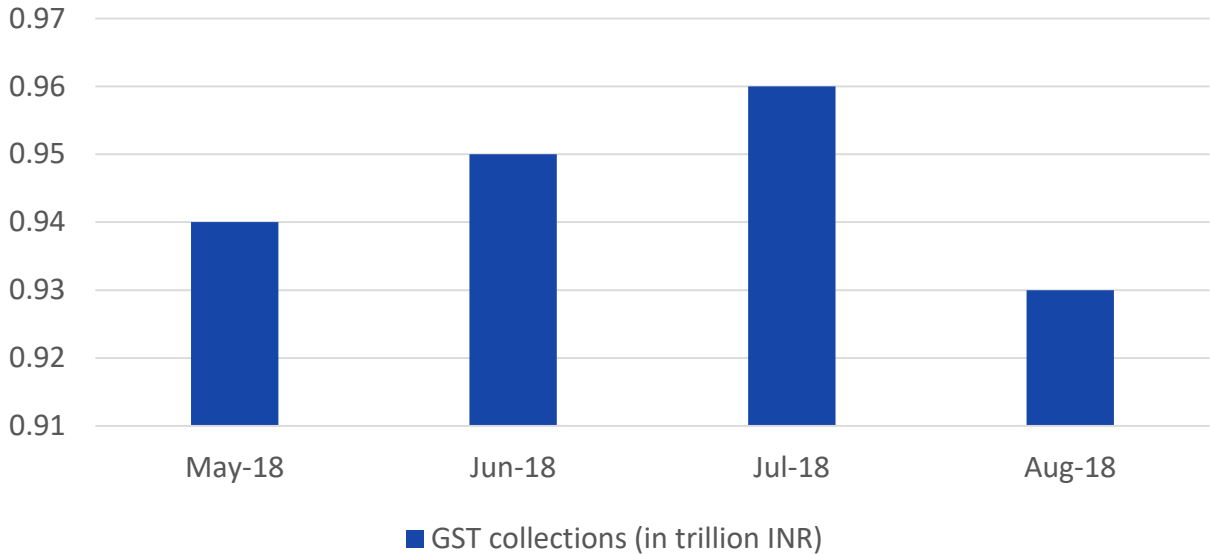
Form	Applicable to	Period	Due Date
GSTR-1	Taxpayers with annual aggregate turnover more than INR 15 million	August 2018	11 September 2018
GSTR-3B	Certain taxpayers registered in notified areas of Kerala, Karnataka and Puducherry	August 2018	10 October 2018
	All other registered taxpayers	August 2018	20 September 2018
GSTR-5	Non-resident taxable persons	August 2018	20 September 2018
GSTR 5A	Individuals providing Online Information and Database Access or Retrieval (OIDAR) services	August 2018	20 September 2018
GSTR-6 (monthly)	Input service distributors	July 2017 to August 2018	30 September 2018
GST ITC-04 (quarterly)	Taxpayers dispatching goods to a job-worker	July 2017 to June 2018	30 September 2018

Other Key Aspects

GST from a Macro Perspective

Revenue collections

The government's GST collections for August 2018 stood at INR 0.93 trillion. There has been a marginal dip of 2.61% in GST collections as compared to July 2018. The GST collections continue to be below the government's target of an average monthly collection of INR 1 trillion.



GST in the news

- The Council in its next meeting is expected to deliberate on levying a special tax rate or cess to raise additional funds for flood-affected state of Kerala.
- The National Anti-Profitteering Authority has started a helpline (011 - 21400643) to assist customers in registering complaints and resolving queries in relation to profiteering by companies by not passing on the benefits accrued because of the implementation of GST.
- The government is considering matching of GST returns data with the Income Tax returns and transfer pricing submissions of the taxpayers to identify discrepancies and leakages in tax collections.

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