

GST Trends

July 2018

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The month of July witnessed frantic activity on the GST front with the GST Council (the Council) approving a host of changes to the GST law in its 28th meeting held on 21 July 2018. The Council has approved a three-pronged change to the GST law consisting of amendments to returns, GST rates and the GST law with a view to improve compliance rates which as an upshot should give impetus to governments GST collections.

Top Trends

- The 28th meeting of the Council was held on 21 July 2018 in New Delhi. The Council took certain important decisions such as:
 - Simplification of the return filing procedure;
 - Reduction of tax rates and rationalization of Input Tax Credit (ITC);
 - Recommendation of proposed amendments to the GST law.
- The draft simplified GST returns formats have been published for stakeholder comments. In view of requests raised by the majority of businesses, draft formats include a return to amend the original return.
- The Institute of Chartered Accountants of India recently hosted a webinar on GST audit. The general consensus among indirect tax professionals on certain key aspects relating to GST audit is as follows:
 - The turnover limit of INR 20 million for the purpose of determining the applicability of GST audit for a given GST registration is to be considered PAN-wise, i.e., aggregate turnover of all GST Identification Number (GSTIN) across India having the same Permanent Account Number (PAN) should be considered.

Example: Company 'A' has GST registration in the state of Maharashtra and Gujarat. Its GST turnover is INR 15 million and INR 9 million in the state of Maharashtra and Gujarat respectively. In this scenario, even though individually the turnover for each state does not exceed the statutory threshold of INR 20 million, Company 'A' is liable to GST audit both in the state of Maharashtra and Gujarat as its aggregate turnover across India is INR 24 million (15+9).
 - The turnover should be determined on the basis of the entire financial year from April 2017 to March 2018, and not just for the post-GST implementation period, i.e., from July 2017 to March 2018.
 - The purpose of a GST audit report is to explain the reason for deviation and not just to 'report deviation.'

Judicial Pronouncements

Issue	Ruling	SKP Comments
<p>Whether processing of goods belonging to another person qualifies as job work even if it amounts to manufacture? Appellate Authority for Advance Ruling (AAAR), Maharashtra</p>	<p>The main ground of appeal before the AAAR was the decision by the Authority for Advance Ruling (AAR), Maharashtra that definition of 'job work' under the CGST Act (the Act) covers 'process and treatment' on goods, whereas in this instance, the operations carried out are in the nature of manufacturing, which is beyond 'process and treatment', and thus not covered under the definition of job work.</p> <p>The main contentions of the applicant were as follows:</p> <ul style="list-style-type: none"> • Under the Act, manufacturing is a subset of job work; • The job work definition does not provide any exclusion to 'manufacture' and hence should not be read narrowly; and • The Harmonized System of Nomenclature (HSN) code applicable to certain job work uses the word 'manufacturing service.' <p>The AAAR answering the question in the affirmative held that, on a harmonious reading of the definition of job work and the procedure for the same, it is construed that the principal will send the inputs to the job worker for conducting any treatment / process / which may or may not amount to manufacture and shall bring back the same after completion of job work or otherwise.</p>	<p>The taxpayers engaged in a similar business model would be well advised to remain circumspect as the decision of the AAAR may not sustain scrutiny at higher appellate fora.</p>

Issue	Ruling	SKP Comments
<p>Whether fabrication and fitting out bus bodies on the chassis supplied by customers a transaction of job work or a contract for the sale of goods? AAR, Haryana</p>	<p>The applicant had contended that the impugned activity is a job work. The applicant submitted that a bare reading of the definition of job work under the Act gives an impression that any agreement for carrying out fabrication and fitting of any movable property on goods belonging to another should be covered under job work.</p> <p>The AAR, while disagreeing with the contention of the applicant, relied primarily on Circular No. 34/8/2018-GST dated 3 March 2018 wherein it was clarified that:</p> <p><i>“In the case of bus body building, there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.”</i></p> <p>The AAR further observed that in the instant case, it is only the chassis which is supplied by the customers of the applicant. At the same time, bus body building involves the use of raw materials/inputs, etc., for manufacture/fabrication of bus body and the cost of these inputs, do form a part of value which is being charged by the applicant from its customers.</p> <p>Basis the above, the AAR held that chassis supplied by the other party is a composite supply with supply of goods, i.e., bus-bodies, being principal supply.</p>	<p>Sending the chassis of a vehicle to a third party for building of the motor vehicle is a prevalent industry practice. Businesses should carefully evaluate the GST implications in view of the ruling by the AAR and Circular No. 34/8/2018-GST dated 3 March 2018.</p>

Issue	Ruling	SKP Comments
<p>Whether the amount paid to authorized dealers towards 'rate difference' after effecting the supply of goods to such dealers can be considered for the purpose of arriving at the 'transaction value'? AAR, Maharashtra</p>	<p>The applicant had represented that in certain cases, due to highly competitive and dynamic market conditions, the authorized dealers have to sell goods purchased from the applicant, at a price lower than their purchase price. Furthermore, the dealers are aware that there will be compensation from the applicant in the form of 'rate difference,' as per the past practice. However, the exact amount of such compensation cannot be determined beforehand.</p> <p>The AAR answering the question in negative held as follows:</p> <ul style="list-style-type: none"> • Section 15(3)(b)(i) of the Act clearly states that quantum of discount given after the supply of goods has taken place has to be there in terms of an agreement, i.e., it cannot be open-ended and not based on any criteria. • The bare word 'discount' mentioned in the agreement between parties, as in the instant case, without there being any parameters or criteria mentioned will not fulfill the requirement of the said section. • No taxation statute can be construed to be having an open-ended discount with legislative intent. • Thus, such 'rate difference' cannot be considered and allowed as a discount for the purpose of arriving at 'transaction value' in terms of Section 15 of the CGST Act. 	<p>Year-end discounts on account of 'rate difference' is prevalent in many industries. In view of this AAR, it is advisable that businesses reassess their vendor contracts and to the extent feasible insert suitable clauses in the contracts stating the computation mechanism for calculation of discounts.</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	July 2018	10 August 2018
GSTR-3B	All registered taxpayers	July 2018	20 August 2018
GSTR-5	Non-resident taxable persons	July 2018	20 August 2018
GSTR 5A	Online Information and Database Access or Retrieval (OIDAR)	July 2018	20 August 2018
GSTR-6 (monthly)	Input service distributors	July 2017 to June 2018	30 September 2018

Other Key Aspects

GST from a Macro Perspective

Key features of simplified returns

The Council has released the salient features and the format of the simplified return filing procedure which is proposed to be implemented once the Goods and Services Tax Network (GSTN) carries out the required changes in the IT system. The key features of the same are as follows:

- **Outward Supplies**
 - Facility for continuous uploading of invoices by the supplier and viewing of such invoices by the recipient on the GST common portal.
 - These would be auto-populated as “Annexure of Outward Supplies” in the main return.
- **Inward Supplies and ITC**
 - Annexure of inward supplies
 - To be auto-drafted based on invoices uploaded by suppliers.
- **Credit mechanism**
 - Recipient to avail ITC only on the basis of invoices uploaded by the supplier.
 - ITC pertaining to invoices uploaded by supplier by the tenth of the subsequent month to be available in the same month. Invoices uploaded by the supplier after the tenth of the subsequent month shall be available to the recipient only in the return of the next month. For e.g., if an invoice of April 2018 is uploaded by the supplier on 11 May 2018, the recipient can claim ITC available in respect of such invoice in its return for the month of May 2018 and not of April 2018 resulting in working capital blockage.

- **Provisional ITC in transition phase**
 - The ITC availment mechanism would be relaxed in the transition phase of six months after the new system of return filing is implemented.
 - In the transition phase, the recipient would be able to avail provisional ITC on a self-declaration basis even in respect of invoices not uploaded by the supplier by the tenth of the next month.
 - A ‘missing invoice’ facility would be available for this purpose. Reporting of ‘missing invoices’ can be delayed by the recipient for up to two tax periods to allow him time to follow up and get the missing invoice uploaded from the supplier.
- **Main return** - One monthly return for all registered persons to be called as “monthly return” in form GSTR to be filed by 20th of the subsequent month. Most of the details of outward and inward supplies to be auto-populated. Certain fields would be required to be entered manually by the taxpayer such as:
 - Advances
 - Exempt and non-GST supply
 - ITC reversal
 - Amount of tax, interest or late fee.

Proposed amendments to GST law

The Council has engaged in continuous discussions with industry representatives and the revenue officials with the view to ease avoidable burden on businesses, plug loopholes and provide clarity in the GST law. Certain key recommended amendments are as follows:

- **Interest not applicable on the reversal of ITC on account of non-payment to the supplier within 180 days - Second Proviso to Section 16(2)**

The Council has re-visited the provision of levying interest on outward liability incurred due to the reversal of ITC and has deemed it as too onerous. It has therefore been proposed to be removed.

- **RCM on inward supplies from unregistered dealers only if specifically notified - Section 9(4)**
Addressing the concerns raised by the industry, it has been proposed to permanently suspend the provision of Reverse Charge Mechanism (RCM) on inward supplies from unregistered dealers to the extent that they apply to all registered persons. Now, the government may notify certain select category of registered persons who will be required to adhere to this provision.

- **Linkage of credit notes to specific invoices proposed to be discontinued - Sections 34(1) and 34(3)**

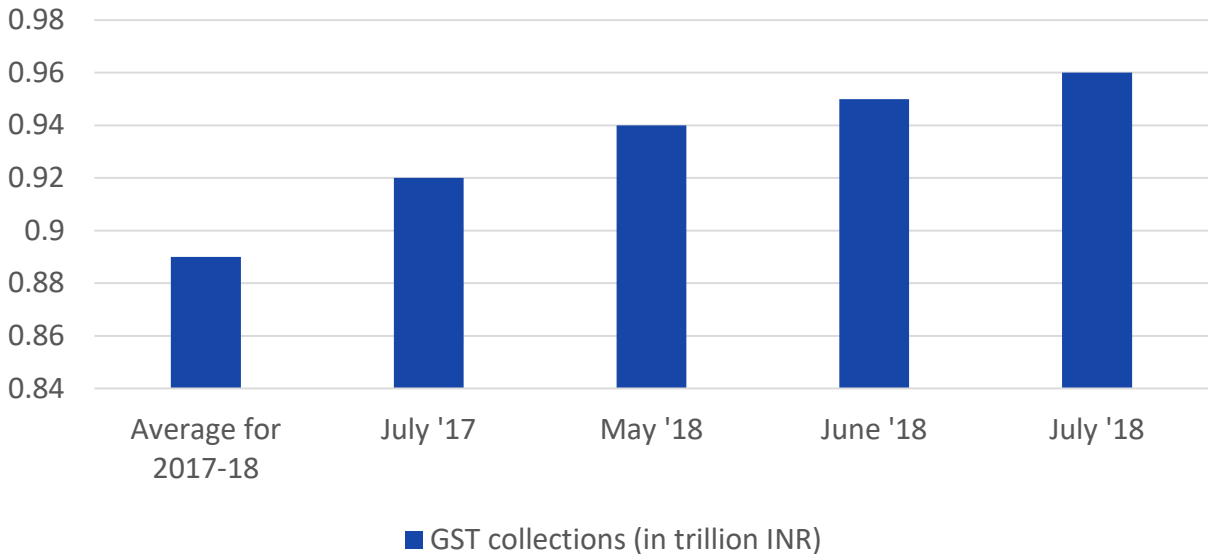
At present, credit note and debit note are to be linked with specific invoices. It has been proposed to allow issuance of consolidated credit and debit notes in respect of multiple invoices issued in a financial year, without linking them invoice-wise.

- **ITC on motor vehicles and certain employee benefits proposed to be liberalized - Section 17(5)**
The proposed amendment seeks to clarify that ITC would now be available in respect of dumpers, work-trucks, fork-lift trucks and other special purpose motor vehicles. After the amendment is carried out, ITC would be denied only in respect of motor vehicles for transport of persons having approved seating capacity of not more than 13 persons (including the driver), vessels and aircraft when these are used for personal purposes.

Furthermore, allowing ITC when the goods or services provided to employees are obligatory under any law will come as a major relief to businesses.

Revenue collections

The GST collections have continued its upward trend, albeit marginally, with the gross GST collections for the month of July 2018 standing at INR 0.96 trillion. The GST collections, however, remain slightly below the government's target of an average monthly collection of INR 1 trillion.



GST in the news

- GSTN is testing Information Technology (IT) tools to be implemented for tax officials to ease the process of matching GSTR-1 and GSTR-3B filed by taxpayers.
- The Council is considering the integration of e-Way Bill with regional transport databases to develop a mechanism to remove all check-posts by doing away with various road permits.
- The solar industry has sought urgent clarity from the Council on the GST rate applicable to solar power projects in view of the contradicting rulings pronounced by the Authority for Advance Rulings of various states.

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