

GST Trends

October 2018

www.skpgroup.com

September has been a fire fighting month for tax payers to rework, decide eligibility and claim Input Tax Credits pertaining to financial year 2017-18. October and November month are going to provide no relief to them, as we have entered the GST Annual return and GST Audit zone. Being the first GST audit season, numerous uncertainties, clarifications and updates are expected to flow in the coming period.

Top Trends

Multi period refund application

Earlier, the taxpayers were provided with a utility to file monthly refund application. Now, the facility to apply for refund for multiple tax period has been made available. e.g. April to July, August to October, etc for-

- Export of services with payment of tax
- ITC accumulated due to Inverted duty structure
- On account of supplies made to SEZ (Unit and Developer) with payment of Integrated Goods and Services Tax (IGST)
- Recipient/Supplier of deemed export

IGST Refund denied due to claiming of higher Drawback

- Various instances have been reported wherein IGST refund has been denied when drawback has been claimed at higher rate or where higher rate and lower rate are identical.
- In this regard, clarification has been issued vide Circular-37/2018 dated 9 October 2018 stating that it has already been notified that any taxpayer would be allowed to claim only one

benefit – IGST refund or drawback as above.

- Therefore, the taxpayers would not be allowed IGST refund once drawback has been claimed and there would be no scope for re-opening the issue.

IGST refund in case of benefit under EPCG scheme availed

- *Rule 96* of Central Goods and Services Tax (CGST) rules – Refund rules had been amended in October 2017, wherein refund of IGST paid on export of goods was denied to various assesses availing exemptions including Export Promotion Capital Goods (EPCG) scheme.
- *Vide 54/2018* - Central Tax dated 9 October 2018, Rule 96 has been further amended to allow exporters who have received capital goods under the EPCG scheme to claim refund of the IGST paid on exports.
- Circular No. 70/44/2018 – GST dated 26 October 2018 was issued to provide further clarity on this matter.

Procedure in respect of return of goods

- Central Board of Indirect Taxes & Customs (CBIC) vide Circular No. 72/46/2018-GST has prescribed procedure and clarification regarding return of time expired drugs and medicines.
- However, the circular states that the below clarification may be referred for goods returned on account of any other reason as well.

Option 1 – Disclose the returned goods as fresh supply

Goods returned from	Goods returned to	Document to be generated	ITC availability for wholesaler/manufacturer
Registered Person	Wholesaler/Manufacturer	Tax Invoice	Available*
Composition Dealer	Wholesaler/Manufacturer	Bill of supply	Not available
Unregistered Dealer (URD)	Wholesaler/Manufacturer	Commercial document	No GST would be applied on outward supply, therefore there is no question of ITC availability

* When the Returned/Expired goods are destroyed by the Manufacturer, he would be required to reverse the ITC availed on the fresh supply

Option 2 – Issue of credit note for returned supply

- The supplier (Wholesaler/Manufacturer) can issue a credit note for goods returned back by the recipient (Wholesaler/Retailer).
- As per 34 (2) of CGST Act, 2017, the output tax liability adjustment for credit note cannot be reduced in cases where credit note has been issued after 30 September of the following year. Therefore, the tax liability adjustment for goods returned in following cases are recommended below –
 - Credit Note issued within time limit (as mentioned above)
The supplier can adjust the tax liability subject to the condition that the recipient has not availed or reversed the ITC on original supply.
 - Credit note issued after time limit
The supplier cannot adjust the tax liability since the credit note is issued after the time limit prescribed under 34 (2) of CGST Act, 2017. In such a case, the credit note may not be disclosed in GST returns since the GST liability cannot be adjusted.
- When the Returned/Expired goods are destroyed by the Manufacturer, he would be required to reverse the ITC attributable to the manufacture of such goods.

- The circular is silent about the eligibility of ITC on returned goods which has been already availed by the recipient. It would be pertinent to determine the eligibility of the same once the goods are returned.

Relief to Composition dealer

CGST Rules, 2017 have been amended vide Notification No. 60/2018 – Central Tax to provide relief taxpayers who have opted to pay tax under the composition scheme. Now, they are not required to furnish the data of inward supply in serial number 4A of Table 4 of FORM GSTR-4.

Final return in Form GSTR 10

Vide Notification No. 58/2018 - Central Tax, it has been notified that persons whose GST registration has been canceled on or before the 30 September 2018, are required to furnish the final return in FORM GSTR-10 on or before 31 December 2018.

Judicial Pronouncements

Issue	Ruling	SKP Comments
<p>Whether mention of name and registered address of the seller on the goods (as required by FSSAI regulations and Legal Metrology Rules) without any brand logo amounts to brand name or not?</p> <p>M/s.Aditya Birla Retail Limited - Appellate Authority Advance Ruling (AAAR), Maharashtra</p>	<p>The AAAR held that by removing the registered brand name logos - 'MORE' and 'Aditya Birla Retail' from the packing of the product cannot render such goods unbranded and the benefit of exemption notification from GST would not be available to such goods.</p>	<p>The AAAR provides clarity that use of those words on packing which depicts connection with brand name amounts to branding and any manipulation to avail exemption would not be acceptable.</p> <p>This ruling was in sync with the AAR held in this matter.</p> <p>In our view, in absence of clear provisions in GST law the issue is expected to remain contentious and it is possible that other judicial forums may adopt a contrary view in future litigations.</p>

Issue	Ruling	SKP Comments
<p>Marine consultancy services - Whether services comprising of Consultancy and Support Services are naturally bundled and in such cases can consultancy service be regarded as Principal supply?</p> <p>Five star shipping-AAAR, Maharashtra</p>	<p>The appellant provides supply of the main services i.e. chartering of the vessels and other administrative activities like examination of lay time calculation, voyage account reconciliation for eventual settlement with the charterers</p> <p>The AAAR held that the services provided by the appellant would qualify as composite supply. Wherein, principal supply would be qualified as intermediary services and other service as accounting services</p>	<p>The AAR in this matter had held that the services provided by appellant would not constitute “composite supply.”</p> <p>However, AAAR provided a different view that the services would qualify as composite supply.</p> <p>Also that intermediary services would be principal supply of service.</p> <p>In such as case, the place of supply would be determined as per section 13(8)(b) of the IGST Act i.e. location of supplier of service.</p> <p>In light of the AAAR, businesses should carefully evaluate their position in cases where multiple supplies may be classified as composite supplies.</p>
<p>Whether medicines supplied by hospital through in-house pharmacy should be considered as healthcare services and would be non-taxable?</p> <p>M/S Ernakulam Medical Centre Pvt Ltd, Authority Advance Ruling (AAR), Kerala</p>	<p>The AAR held that the medicines supplied to in-patients would form part of composite supply of healthcare services and therefore be non- taxable, however the medicines supplied to out-patients would be treated as individual supply of medicine and would not be covered under the ambit of healthcare services and therefore be taxable.</p>	<p>The AAR provides clarity regarding the taxability of medicines supplied by in-house pharmacy of hospital.</p>
<p>Whether goods in transit can be detained in the event of error in one or two digits/characters of the vehicle number on e-way bill?</p> <p>Rajavat Steels And Another – Writ petition, High Court Allahabad</p>	<p>In the given case, goods in transit was detained by authority on the ground that the vehicle number in e-way bill was erroneously mentioned as U.P-78-DN 7983 instead of U.P-78-DN 7938.</p> <p>The court expressed unhappiness for the act of detainment of goods on account of inadvertent human error.</p> <p>The court directed immediate release of goods and instructed the petitioner to furnish the indemnity bond to the extent of the amount of penalty.</p>	<p>The writ petition can form a principle in instances where the goods in transit are subject to detainment due to mistake or human error.</p>

It is to be noted that an Advance Ruling is binding only on the applicant who had sought it and the concerned jurisdictional authority i.e. an Advance Ruling is specific to an applicant and shall not be applicable to other taxpayers facing similar issues.

However, the above mentioned Advance Rulings provide clarity about the issues being faced and have a persuasive value in matter before the tax authorities.

Compliance Chart for Upcoming GST Due Dates

Form	Applicable to	Period	Due Date
GSTR – 1 – Outward supplies (Monthly)	Taxpayers with annual aggregate turnover more than INR 15 million	October 2018	11 November 2018
GSTR 3B	All registered taxpayers	October 2018	20 November 2018
GSTR 5	Non-resident taxable persons	October 2018	20 November 2018
GSTR 5A	Online Information and Database Access or Retrieval (OIDAR)	October 2018	20 November 2018
GSTR-6	Input Service Distributors	October 2018	13 November 2018
GSTR-7	TDS Deductor	October 2018	10 November 2018
GSTR-8	TCS Collector	October 2018	10 November 2018

Extended due dates for newly migrated tax payers and ITC-04

- Newly migrated taxpayers

Periodicity	Period	Extended date
Monthly	July 2017 to November 2018	31 December 2018
Quarterly	July 2017 to September 2018	31 December 2018

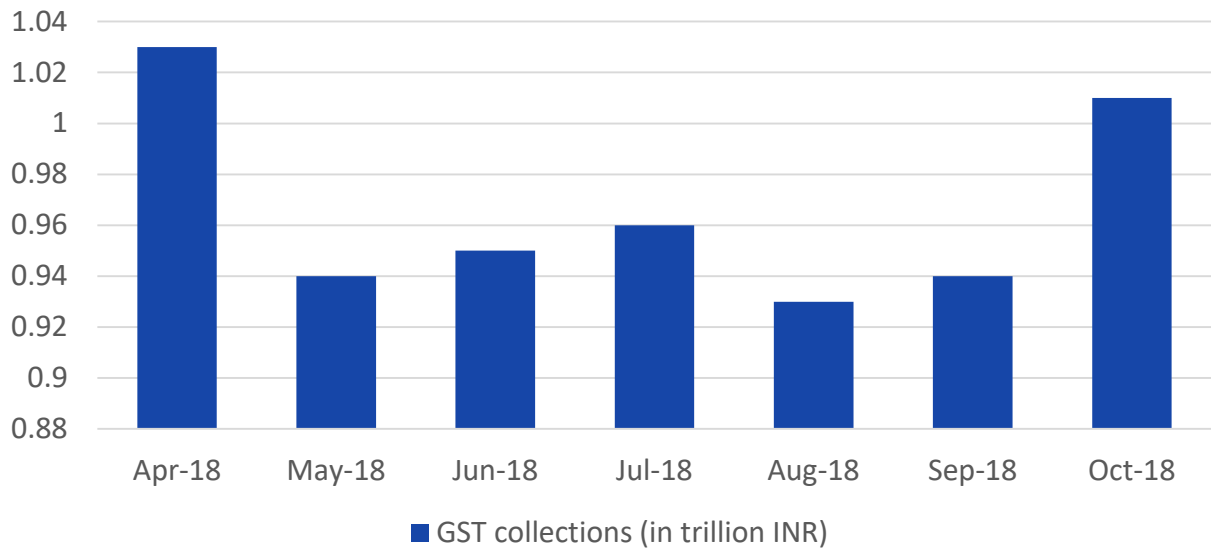
- Due date of ITC-04 (Goods sent and received from Job-worker) for the period July 2017 to September 2018 has been extended till 31 December 2018 (Notification No. 59/2018 – Central Tax)

Other Key Aspects

GST from a Macro Perspective

Revenue collections

The government's GST collections in October 2018 stood at INR 1.01 trillion. It is higher by 6.64% as compared to September 2018 collection of INR 0.94 trillion. October month has finally managed to touch the government's target of average monthly collection of INR 1 Trillion. The chart shows trends in GST Collections (in trillion INR) during the current year.



Other GST Statistics

- The GST revenue collected in the month of October 2018 of INR 1.01 trillion include –
 - **CGST** INR 0.16 trillion
 - **SGST** INR 0.23 trillion
 - **IGST** INR 0.53 trillion (including 0.26 trillion collected on imports)
 - **Cess** INR 0.08 trillion (including 0.01 trillion collected on imports)
- As many as 6.745 million businesses filed their summary sales return GSTR-3B September up to 31 October 2018
- Following states have been appreciated for achieving extraordinary growth in total taxes collected -

State	Growth
Kerala	44%
Jharkhand	20%
Rajasthan	14%
Uttarakhand	13%
Maharashtra	11%

About SKP

SKP is a global professional services group with its principal areas of operations in business advisory, end-to-end finance and accounting solutions including assurance advisory and taxation, business process management, and IT risk advisory. SKP's focus is to provide solutions which result in tangible business benefits and performance improvements.

Our multi-disciplinary teams serve clients from various geographies and industries ensuring global standards. With over 80% of our client-base being international, we truly understand the needs of global companies and their expectations and our customized global solutions are designed to factor in local nuances. Our commitment is rooted in a passion for solutions, empowering our people and clients to achieve more.

Contact Us

India - Mumbai

Urmi Axis, 7th Floor
Famous Studio Lane, Dr. E. Moses Road
Mahalaxmi, Mumbai 400 011
India

T: +91 22 6730 9000
E: IndiaSales@skpgroup.com

USA - Chicago

2917 Oak Brook Hills Road
Oak Brook, IL 60523
USA

T: +1 630 818 1830
E: NorthAmericaSales@skpgroup.com

UAE - Dubai

Emirates Financial Towers
503-C South Tower, DIFC
PO Box 507260, Dubai
UAE

T: +971 4 2866677
E: UAESales@skpgroup.com

Canada - Toronto

269 The East Mall
Toronto, ON M9B 3Z1
Canada

T: +1 647 707 5066
E: NorthAmericaSales@skpgroup.com

www.skpgroup.com



[linkedin.com/company/skp-group](https://www.linkedin.com/company/skp-group)



twitter.com/SKPGroup



[facebook.com/SKPGroupIndia](https://www.facebook.com/SKPGroupIndia)



[youtube.com/c/SKPGroup](https://www.youtube.com/c/SKPGroup)



plus.google.com/+SKPGroup

This alert contains general information which is provided on an "as is" basis without warranties of any kind, express or implied and is not intended to address any particular situation. The information contained herein may not be comprehensive and should not be construed as specific advice or opinion. This alert should not be substituted for any professional advice or service, and it should not be acted or relied upon or used as a basis for any decision or action that may affect you or your business. It is also expressly clarified that this alert is not intended to be a form of solicitation or invitation or advertisement to create any adviser-client relationship.

Whilst every effort has been made to ensure the accuracy of the information contained in this alert, the same cannot be guaranteed. We accept no liability or responsibility to any person for any loss or damage incurred by relying on the information contained in this alert.

© 2018 SKP Business Consulting LLP. All rights reserved.